



# MUTUAL EVALUATION REPORT OF THE REPUBLIC OF CHILE



September 2021



The Financial Action Task Force of Latin America (GAFILAT by its acronym in Spanish) is a regionally-based intergovernmental organization that groups 17 countries of South America, Central America and North America. This organization was created to prevent and combat money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction, through the commitment to continuous improvement of national policies against these crimes and the deepening of the different cooperation mechanisms among member countries.

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*This assessment was adopted by the GAFILAT at its XLIII Plenary meeting on July 2021.*

**Citing reference:**

Mutual Evaluation Report of the Republic of Chile.

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MUTUAL EVALUATION REPORT OF THE REPUBLIC OF CHILE

EXECUTIVE SUMMARY .....	5
Key findings .....	5
Risks and general situation .....	6
Overall Level of Effectiveness and Technical Compliance.....	7
Effectiveness & Technical Compliance Ratings .....	12
MUTUAL EVALUATION REPORT .....	15
Preface .....	15
CHAPTER 1.    ML/TF RISKS AND CONTEXT.....	16
ML/TF Risks and Scoping of Higher-Risk Issues .....	17
Materiality .....	19
Structural Elements.....	20
Background and other Contextual Factors .....	21
CHAPTER 2.    AML/CFT NATIONAL POLICIES AND COORDINATION .....	27
Key Findings and Recommended Actions .....	27
Immediate Outcome 1 (Risk, Policy and Coordination).....	29
CHAPTER 3.    LEGAL SYSTEM AND OPERATIONAL ISSUES .....	36
Key Findings and Recommended Actions .....	36
Immediate Outcome 6 (ML/TF financial intelligence).....	39
Immediate Outcome 7 (ML investigation and prosecution) .....	49
Immediate Outcome 8 (confiscation) .....	60
CHAPTER 4.    TERRORIST FINANCING AND FINANCING OF PROLIFERATION .....	73
Key Findings and Recommended Actions .....	73
Immediate Outcome 9 (TF Investigation and Prosecution).....	76
Immediate Outcome 10 (TF preventive measures and financial sanctions) .....	82
Immediate Outcome 11 (PF financial sanctions).....	87
CHAPTER 5.    PREVENTIVE MEASURES .....	90
Key Findings and Recommended Actions .....	90
Immediate Outcome 4 (Preventive Measures).....	91
CHAPTER 6.    SUPERVISION .....	100
Key Findings and Recommended Actions .....	100
Immediate Outcome 3 (Supervision).....	102
CHAPTER 7.    LEGAL PERSONS AND ARRANGEMENTS.....	122
Key Findings and Recommended Actions .....	122
Immediate Outcome 5 (Legal Persons and Arrangements) .....	122
CHAPTER 8.    INTERNATIONAL COOPERATION .....	133
Key Findings and Recommended Actions .....	133
Immediate Outcome 2 (International Cooperation).....	134



TECHNICAL COMPLIANCE ANNEX .....	151
Recommendation 1 – Assessing Risks and Applying a Risk-Based Approach.....	151
Recommendation 2 – National Cooperation and Coordination.....	153
Recommendation 3 – Money laundering offence.....	155
Recommendation 4 – Confiscation and provisional measures .....	158
Recommendation 5 – Terrorist financing offence .....	160
Recommendation 6 – Targeted financial sanctions related to terrorism and terrorist financing .....	164
Recommendation 7 – Targeted Financial Sanctions Related to Proliferation .....	168
Recommendation 8 – NPO .....	170
Weighting and Conclusion .....	173
Recommendation 9 – Financial Institution Secrecy Laws.....	173
Recommendation 10 – Customer Due Diligence .....	174
Recommendation 11 – Record-Keeping.....	180
Recommendation 12 – Politically Exposed Persons.....	181
Recommendation 13 – Correspondent Banking .....	183
Recommendation 14 – Money or Value Transfer Services .....	184
Recommendation 15 – New Technologies .....	185
Recommendation 16 – Wire Transfers .....	186
Recommendation 17 – Reliance on Third Parties .....	189
Recommendation 18 – Internal Controls and Foreign Branches and Subsidiaries.....	190
Recommendation 19 – Higher-Risk Countries.....	192
Recommendation 20 – Reporting of Suspicious Transactions .....	192
Recommendation 21 – Tipping-off and Confidentiality.....	193
Recommendation 22 – DNFBPs: Customer due diligence.....	194
Recommendation 23 – DNFBPs: Other measures.....	195
Recommendation 24 – Transparency and Beneficial Ownership of Legal Persons .....	195
Recommendation 25 – Transparency and Beneficial Ownership of Legal Persons .....	200
Recommendation 26 – Regulation and Supervision of Financial Institutions.....	201
Recommendation 27 – Powers of Supervisors .....	203
Recommendation 28 – Regulation and Supervision of DNFBPs .....	206
Recommendation 29 – Financial Intelligence Units.....	207
Recommendation 30 – Powers of Law Enforcement and Investigative Authorities .....	210
Recommendation 31 – Powers of Law Enforcement and Investigative Authorities .....	211
Recommendation 32 – Cash Couriers .....	212
Recommendation 33 – Statistics.....	214
Recommendation 34 – Guidance and Feedback.....	215
Recommendation 35 – Sanctions.....	216
Recommendation 36 – International Instruments.....	218
Recommendation 37 – Mutual Legal Assistance .....	218
Recommendation 38 – Mutual Legal Assistance: Freezing and Confiscation .....	220
Recommendation 39 – Extradition .....	221
Recommendation 40 – Other Forms of International Cooperation .....	222
Summary of Technical Compliance – Key Deficiencies.....	229
Abbreviations and Acronyms .....	239

## EXECUTIVE SUMMARY

1. This report provides a summary of AML/CFT measures in place in the Republic of Chile (hereinafter, Chile) at the date of the on-site visit, which took place between January 6–17, 2020. The report analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the AML/CTF system in the country, and recommends how the system can be strengthened.

### *Key findings*

- Chile has developed several tools to identify, assess, and understand its money laundering and terrorist financing (ML/TF) risks. In particular, the National Risk Assessment (NRA), several sectoral risk studies, risk-based approach (RBA) documents, typologies and red flags are highlighted. The results of the NRA are generally reasonable and reflect the risks in the country to a good extent, although certain vulnerabilities of the AML/CFT regime are not totally analysed.
- In general terms, competent authorities have a good level of understanding of the ML risks identified, although there are limitations with regard to TF. In this area, the level of understanding of the Financial Analysis Unit (UAF), the Attorney General's Office (MP), the Investigation Police (PDI), Carabineros [Police Force], and the Superintendence of Gambling Casinos (SCJ) is highlighted. However, there are opportunities for improvement regarding the level of understanding of ML/TF risk in relation to some authorities with strategic importance, such as the Financial Market Commission (CMF).
- As regards the implementation of the 2018–2020 Action Plan, significant progress has been made in strengthening capacities, the implementation of AML/CFT prevention systems by public bodies, some supervisory efforts (joint audits), and operational actions aimed at strengthening property investigations. However, there are relevant measures pending identification and/or implementation associated with fundamental deficiencies in the AML/CFT regulatory framework, deficiencies in the criminalisation of ML and TF, among others.
- The UAF has direct and indirect access to various sources of information in a timely manner. It has technological systems that enable it to carry out timely and quality operational and strategic analysis, security systems to adequately protect the confidentiality of financial intelligence, and provides the MP with a significant volume of financial intelligence. The MP uses to a large extent the financial intelligence reports (FIR) and FIR supplements sent spontaneously by the UAF, and the use of UAF financial intelligence is noted in the majority of convictions for ML. The MP has the support of the police forces of an investigative and operational nature.
- There have been several convictions for ML, which are to some extent consistent with the risks identified. However, there is still a certain asymmetry between the universe of investigations and prosecutions for predicate offences and the investigations and prosecutions for ML. In addition, there are certain limitations in the development of parallel financial investigations as well as challenges in terms of resources for the investigation work. There are also challenges in the application of effective, proportional and dissuasive sanctions.
- To a certain extent, the judicial system issues sentences for the confiscation of all types of property and assets, which are subject to precautionary custody by the MP or the police, and subsequently are subject to auction and distribution of the funds collected. However, the regulatory system is not clear in terms of management of seized and confiscated assets.

Likewise, there is a lack of clear identification of the roles of the competent authorities in enforcing property seizures and management.

- Understanding of TF risks by reporting institutions (RI) presents great challenges, which reflects important opportunities for improvement in the detection of suspicious TF transactions and consequently sending TF's Suspicious Transaction Reports (STRs).
- Chile has a variety of RIs, among which the level of understanding of risks, knowledge of their AML/CFT obligations, and implementation of preventive measures, varies by sector. With regard to financial institutions (FIs), the banking and pension fund management (PFM) sector is more mature in terms of implementing preventive measures. With regard to designated non-financial businesses and professions (DNFBPs), the measures implemented by the casino sector are noteworthy. In other sectors, the application of AML/CFT measures presents significant opportunities for improvement.
- In terms of AML/CFT supervision, Chile has a risk-based supervisory model, that is based on the results of the NRA, sectoral risk studies, typologies, etc., which allows it to direct supervisory actions according to the risk level of the RIs. However, there are important challenges in terms of implementation, particularly with regard to the frequency and depth of supervisions. Although actions have been developed to achieve coordination between supervisors, with regard to FIs there are important challenges related to the coordination between the CMF and the UAF. The supervision of PFM's, meanwhile, is largely conducted in a coordinated manner between the Superintendence of Pensions (SP) and the UAF.
- Supervision of casinos is carried out jointly by the UAF and the SCJ to a good extent. Supervision of the remaining DNFBP sectors is conducted by the UAF, which has technological tools and qualified personnel to apply a risk-based approach to supervision. However, the staffing levels impose significant limitations on the scope of supervision.
- Basic information on legal persons (LPs) is largely accessible to competent authorities. However, the obligation to identify and update the information on the beneficial ownership (BO) does not apply to DNFBPs and there is no obligation to do so by the LPs themselves, so there are significant challenges in identifying and updating BO information and in providing competent authorities with timely access to this information.
- International cooperation, mutual legal assistance (MLA), and extradition requests in Chile are of a proactive nature and are governed by the principle of reciprocity. The country provides spontaneous international cooperation, based on various bilateral agreements. However, the deficiencies identified in IO.5 on BO information may have an impact on the provision of international cooperation in this area.
- In terms of cooperation and coordination on TF, the UAF faces certain challenges with key authorities in the national CFT regime.
- Chile has a regulatory framework in place for applying targeted financial sanctions (TFSs) related to TF and financing of the proliferation of weapons of mass destruction (PF), although implementation without delay may be affected by the nature of the mechanism established. The country disseminates in a timely manner the lists of United Nations Security Council Resolutions (UNSCRs) and their updates. However, it appears that only financial RIs—mainly banks—have systems in place that allow for the timely detection of matches, and have a better level of awareness of their obligations in this area compared to DNFBPs.

### *Risks and general situation*

2. Chile borders Peru to the north, Bolivia and Argentina to the east, the South Pole (Chilean Antarctic Territory) to the south, and the Pacific Ocean to the west. In its political-administrative division, the country is composed of 16 regions, subdivided into 56 provinces and 346 communes.

In terms of its economy, in 2019 its GDP amounted to approximately USD 294,225,000,000 and the per capita GDP to USD 27,124.

3. The country is characterised by having a free market and an economy open to international trade, which is attractive to foreign direct investment. Chile has a developed financial system with high transaction volumes, mainly composed of the banking sector and a very important stock market, the latter accounting for 111.1% of GDP. It also has high rates of financial inclusion and high levels of formality in its economy. In turn, casinos, property brokers, real estate management companies, notaries, real estate registrars, and auction houses operate in Chile as DNFBPs. Some DNFBPs are not considered RIs, particularly lawyers, accountants, corporate service providers, and dealers in precious metals and stones.

4. In terms of identification and assessment of ML/TF risks, there is a NRA and risk studies for free-zone users (FZUs), NPOs, and legal persons and arrangements. There are also risk-based studies for the banking and insurance sectors, real estate management companies, and notaries. In the NRA, the country identified drug trafficking, smuggling, trafficking in persons, and corruption as the main threats. There are vulnerabilities associated with the country's long border, its proximity to drug-producing jurisdictions, and technical deficiencies in legislation, particularly with regard to BO, among others.

### *Overall Level of Effectiveness and Technical Compliance*

#### *Risk assessment, coordination and policy establishment (Chapter 2 – IO.1; R.1, R.2, R.33)*

5. Chile has made a significant effort in the identification and assessment of ML/TF risks. The country approved the 2017 National Risk Assessment, for which it designed its own methodology, the results of which are largely reasonable. The NRA identifies a series of relevant threats and risks. However, the use of illicit assets derived from fraud was not identified -although it was addressed in typologies reports and red flags published subsequently, which are based on convictions-, and further study is needed of TF risks, risks associated with free zones, FZUs, and sectors of greater materiality. Moreover, not all the key actors in the system participated in the development of the NRA, although the UAF used a wide variety of information sources from said actors.

6. The NRA is complemented by other relevant elements, such as sectoral risk studies related to FZUs, NPOs, legal persons and arrangements, and the sectors of exchange houses, stockbrokers, real estate agents and notaries, in addition to risk-based approach documents and reports on ML typologies and red flags. Also noteworthy is the development by the UAF of a sectoral and individual risk matrix, which gives it an important picture of the country's ML/TF risk.

7. In general, competent authorities have a good level of understanding of the ML risks, although there are certain limitations with regard to TF. In this regard, there is a high level of understanding on the part of the UAF and the Specialised Unit on Money Laundering, Economic Crimes and Organised Crime (ULDDECO), although the level of understanding of TF by the other competent and law enforcement authorities is asymmetrical and offers opportunities for improvement.

8. Chile has developed two National Strategies for the Prevention and Fight against ML/TF (together with their action plans). The 2018–2020 Action Plan shows a significant degree of

progress in its implementation. It is highlighted that the National Strategy is articulated with other multisectoral strategies on drugs, trafficking in persons, and open government plan. However, there are relevant measures pending associated with fundamental deficiencies in the AML/CFT regulatory framework and with AML/CFT supervision. Furthermore, despite the fact that TF has been defined in the NRA as being of an average nature, it is not considered a priority in the Criminal Prosecution Policy; and within the Judiciary, its training activities are not consistent with the AML/CFT risks identified by the country.

9. In terms of national coordination and cooperation, the establishment of permanent working groups with competent authorities is noteworthy. However, there are challenges on cooperation and coordination in the TF field between the UAF and some competent authorities; particularly with the PDI's Special Police Investigation Brigade (BIPE), the Directorate of Intelligence of Carabineros, and the National Intelligence Agency (ANI).

*Financial intelligence, money laundering and confiscation (Chapter 3 – IO.6–8; R.3, R.4, R.29–32)*

10. The UAF has direct and indirect access to various sources of information, and has technological tools that enable it to carry out timely and quality operational and strategic analysis. It also has security systems to adequately protect the confidentiality of financial intelligence. Moreover, it provides the MP with a significant volume of financial intelligence. Between 2015 and 2019 the UAF sent 347 spontaneous communications to the MP, all of them associated with potential ML cases, and no dissemination linked to potential TF cases has taken place. In the same period, the UAF answered 434 information requests from competent authorities. The quality of the STRs received by the UAF is generally good (most of them are of medium or high quality). The UAF is making efforts to provide feedback to RIs in this regard.

11. The UAF cooperates and exchanges financial intelligence with the MP on a regular basis. The MP, through the Specialised Unit on Money Laundering (ULDDECO), receives the FIRs from the UAF. The MP uses financial intelligence to a great extent, and there are examples of complex cases with final convictions which were initiated by communications from the UAF, such as the Verde Austral, El Chupete, and Lingote de Oro cases. It should be pointed out that in 78% of the ML convictions issued during the period under evaluation financial intelligence from the UAF was used. Although the UAF sends the FIRs to the MP through a secure channel, vulnerabilities are noted in terms of protection of the confidentiality of the FIRs by prosecutorial authorities at the level of formalised investigations.

12. The MP has the ULDDECO, which is comprised of specialised officials and provides advice on technical aspects to the prosecutors who handle ML cases. The existence of specialised units in the field of drugs and corruption is also highlighted. In terms of ML investigation, the MP has important support from the Investigative Police (PDI) and Carabineros, with whom there is good coordination and cooperation. PDI and Carabineros have specialised ML areas, with qualified personnel who understand to a great extent the risks of ML. The investigative and operational capacities of both institutions, which carry out property surveys and apply special investigative techniques, should be highlighted.

13. Between 2015 and 2019, the MP initiated 646 ML investigations and 94 convictions were passed, which include various forms of this offence and are largely consistent with the risks identified. However, there is a considerable asymmetry between the universe of investigations and

prosecutions for predicate offences and investigations and prosecutions for ML. In addition, there are certain limitations in the development of parallel financial investigations, which is reflected in the aforementioned imbalance. Moreover, the provision that subjects the maximum ML sentence to that set forth for ML predicate offences has an impact on the effectiveness, proportionality, and dissuasiveness of the sentences, and may have an impact in terms of the autonomy of the offence. There are also important challenges in terms of the amount of resources available for investigative work.

14. Law enforcement authorities (LEAs) are aware of the importance of confiscation, and protocols, handbooks, and best practices exist for this purpose. The enforcement of seizures and other precautionary measures could be verified, within a system that seeks to ensure—after their identification—the freezing of property and assets, in order to subject them to the outcomes of the criminal process. However, there are limitations in the management of seized and confiscated property, including an unclear allocation of roles throughout the circuit, which hinders proper enforcement of confiscations. Finally, there is a good control level of cross-border transportation of money and securities. However, this is not reflected in the number of criminal cases prosecuted on the basis of findings from such controls.

*Terrorist Financing and Financing of Proliferation (Chapter 4 – IO.9–11; R.5–8)*

15. The Chilean legal framework has criminalised TF; however, there are technical deficiencies mainly related to the scope of all acts of terrorism and TF behaviours as required by the International Standard and the proportionality and dissuasiveness of sanctions. During the period assessed, TF investigations have been conducted, but they were dismissed because the respective hypotheses could not be proven. Notwithstanding the above, the analysis of some important cases of terrorism shows the use of good practices of coordination between the competent authorities and of exchange of financial intelligence on the matter, which allows considering that in the event of a presumed case of TF, the prosecution mechanism may be used for such purposes. In fact, in practice, there has been precedents of terrorism investigations and convictions that allows to assume that, in the event of TF cases, they could be given priority and mechanisms and resources similar to those of the terrorism persecution would be applied.

16. Some of the main competent authorities involved in the detection of TF and its prosecution (UAF and ULDDECO, respectively) understand to a great extent the risks of TF, although the rest of the competent authorities have a more limited understanding. In its capacity as specialised unit, ULDDECO advises prosecutors appointed to organised crime cases who may also investigate TF. Also, the UAF and the MP proved to have access to multiple integrated databases, which is reflected as a strength for potential TF investigations.

17. In particular, the UAF has a risk matrix and systems that allow permanent cross-checking between transactions and UNSC lists, as well as detecting TF alerts and monitoring operations with high-risk jurisdictions. In terms of cooperation and coordination in the area of TF, the UAF faces certain challenges with key authorities in the national CFT regime such as the PDI BIPE, the Directorate of Intelligence of Carabineros, and the ANI.

18. Chile has a regulatory framework that enables it to implement TF-related TFSs. However, there are some technical deficiencies that along with the characteristics of the process can impact its implementation without delay -although it should be noted that the sectors with greater materiality within the financial sector generally have the possibility of acting promptly-. The

process of disseminating the lists issued by the applicable UNSCRs seems appropriate, and involves mainly the Ministry of International Relations (Minrel) and the UAF. The level of awareness of FIs about their obligations in this area is higher than that of the DNFBPs. In this regard, most FIs, mainly banks, have automated systems for detecting matches on the lists. The country has presented cases in which the RIs have detected 11 matches and sent the corresponding STR, but these were finally determined to be cases of homonymy.

19. In addition, with regard to NPOs, the UAF carried out a study of the sector in which the subsector with the greatest exposure to TF is identified, and is carrying out monitoring consistent with that level of exposure. However, there is little coordination with the Ministry of Justice and Human Rights (MJDH), which is responsible for supervising the sector.

20. As in the case of the TFSs for TF, the country has provisions enabling it to impose sanctions of this type for PF. It should be noted that the UAF disseminates the UNSCR lists and their updates through its web site. Nevertheless, the prompt implementation of the measures could be affected by the nature of the mechanism envisaged for the procedure, together with the low understanding of the obligations and difficulties of implementation by certain RIs.

#### *Preventive measures (Chapter 5 – IO. 4; R. 9–23)*

21. Chile has a diverse number of FIs and DNFBPs. The level of understanding of ML/TF risks varies by sector. Generally speaking, financial RIs have a higher level of understanding of their ML/TF risks than DNFBPs.

22. All institutions designated as RIs must apply the ML/TF prevention measures provided for in the AML/CFT Law and the regulations issued by the UAF, as well as by their prudential regulators. In general, these regulations have been consistent for all the RIs. However, corporate service providers, lawyers, accountants, and dealers in precious metals and stones have not been designated as RIs.

23. Financial sector RIs implement measures that are proportionate to the risks they assess. The banking, insurance and pension fund management sectors largely understand their main ML risks. However, the other RIs in the financial sector have a lower level of understanding of their risks. With regard to TF-related risks, the banking sector has a greater understanding of its risk exposure, but the other financial sectors have a lower level of understanding. In some cases, even among banks, the differences between ML and TF risks appear to be unclear.

24. DNFBPs show some weaknesses arising from their lower level of understanding of risk, with the exception of the casino sector, which has a higher level of awareness and mitigation. For TF, the understanding of risks is more limited than for ML. In this regard, it was found that some DNFBPs handle the risks associated with ML and TF indiscriminately.

#### *Supervision (Chapter 6 – IO. 3; R. 26–28, R. 34–35)*

25. In the area of licensing, most FIs are authorised to operate by their prudential supervisors. In the area of licensing, most FIs are authorised to operate by their prudential supervisors. With respect to DNFBPs, the casino sector has mechanisms in place to grant and award operating licenses, which include assessment of the background of the applicant company, partners and controllers. In the case of notaries, to qualify for the position they must demonstrate that they have

no criminal record. Likewise, all RIs must register with the UAF and their applications for registration are evaluated on the basis of their criminal record.

26. Chile has a risk-based supervision model based on the results of the NRA, sectoral risk assessments, typologies and red flags, etc. The UAF is the supervisor in AML/CFT matters for all sectors; it has qualified personnel and an AML/CFT sectoral and individual risk matrix, which enables it to identify the level of AML/CFT risk of each of the RIs, monitor its evolution and direct supervisory actions with RBA. Prudential supervisors also have the power to fully supervise the institutions under their supervision, which also includes an ML/TF component. In the case of PFMs and casinos, supervision is carried out jointly by the UAF and the prudential supervisor (SP and SCJ, respectively), and is largely developed.

27. Nevertheless, in general there are implementation challenges, particularly in the frequency and depth of supervisions. There are also certain difficulties in coordination between the UAF and the CMF. In addition, although all the supervisors have sanctioning powers, there are limitations in the implementation of effective, proportionate, and dissuasive sanctions for non-compliance with AML/CFT regulations. In particular, there are significant limitations on the amount applicable to financial institutions.

*Transparency of legal persons and arrangements (Chapter 7 – IO. 5; R. 24–25)*

28. Information on the creation and types of legal persons is largely available with public access. The level of awareness of ML/TF risk and vulnerabilities of legal persons, meanwhile, is asymmetric among law enforcement authorities. The UAF and ULDDECO showed that they have identified and understood to a large extent the ML/TF risks of legal persons. However, for the rest of the authorities, there is a significant opportunity for improvement.

29. Competent authorities have good access to basic, accurate and updated information on legal persons. This access is achieved by direct online consultation of the Official Gazette, or by direct access to the information of real estate registrars (general regime) or by direct online consultation (simplified regime). In addition, the SII has set up its databases to obtain certain basic information on LPs. Information on NPOs can be obtained by consulting the Civil Registry Service.

30. However, with regard to the information of BO, access by the competent authorities is limited. DNFBPs are not subject to any obligation to identify the BO, and there is no obligation to do so on the part of the legal persons themselves. Consequently, there are significant challenges as only certain types of RIs, mostly financial institutions, collect BO information from their customers, and some have had some limitations in implementing such measures. These elements limit the scope of the system and the possibility of accessing this information in an accurate, updated and timely manner by the competent authorities.

*International cooperation (Chapter 8 – IO. 2; R. 36–40)*

31. In general, Chile offers a wide range of mutual legal assistance in a constructive and timely manner, as well as extradition. MLA and extradition requests are channelled through the International Cooperation and Extraditions Unit of the Prosecutor's Office (UCIEX) and are facilitated by multiple cooperation tools both regionally and globally.

32. Informal cooperation between law enforcement authorities and their foreign counterparts is facilitated through an extensive international network, including intelligence, police and prosecutorial investigation, which has led to coordinated actions for the participation of joint investigation teams and asset-sharing. Supervisory authorities have signed a number of international agreements, which have enabled them to effectively deal with cooperation requests from their counterparts.

33. With respect to international cooperation on BO information, authorities reported that requests for such cooperation have been addressed. However, the issues identified in IO.5 regarding the availability of BO information may limit the country's ability to respond in a timely manner to requests for this type of information.

### *Priority Actions*

1. Strengthen actions aimed at improving the understanding of risks by competent authorities, particularly with regard to TF. In this sphere, it is important to continue with training in e-learning and classroom modalities.
2. Continue with the implementation of the 2018–2020 Action Plan, focusing efforts on the implementation of the commitments aimed at overcoming the core deficiencies identified in the AML/CFT regulatory framework, as well as on commitments that are still pending; and promote, through the permanent working groups, the participation of competent operational intelligence authorities in TF matters (especially the ANI).
3. Overcome the technical deficiencies identified regarding the ML and TF criminal offenses.
4. Include dealers in precious metals and stones, lawyers, accountants, and corporate service providers as RIs and adopt measures to enhance ML/TF risks' understanding by DNFBPs in general, but particularly notaries and the real estate sector.
5. Increase the resources of the UAF to strengthen supervision of RIs' compliance with AML/CFT obligations.
6. Adapt the existing regulatory framework for BO, including the obligation for DNFBPs to identify it and adopt measures to allow timely access by competent authorities to accurate, adequate, and updated information on BO.
7. Improve operational coordination between the UAF and the CMF on AML/CFT supervision, and take action to ensure effective supervision of financial institutions and DNFBPs.
8. Take measures to improve the application of effective, proportionate, and dissuasive sanctions against RIs that fail to comply with AML/CFT obligations.
9. Adopt the necessary reforms and operational measures to broaden the scope and ensure the prompt implementation of TFSs for both TF and PF, and improve coordination and cooperation between competent authorities in relation to TF.
10. Strengthen the specialised human resources of the MP and police forces, adopt measures to increase the development of parallel financial investigations, and strengthen the effective identification, seizure and confiscation of the proceeds of crime, including their administration and disposal.

### *Effectiveness & Technical Compliance Ratings*

Effectiveness ratings

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

Technical compliance ratings

*AML/CFT National Policies and Coordination*

<b>R. 1</b>	<b>R. 2</b>
<b>LC</b>	<b>C</b>

Money laundering and confiscation

<b>R. 3</b>	<b>R. 4</b>
<b>LC</b>	<b>LC</b>

Terrorist Financing and Financing of Proliferation

<b>R. 5</b>	<b>R. 6</b>	<b>R. 7</b>	<b>R. 8</b>
<b>PC</b>	<b>PC</b>	<b>PC</b>	<b>PC</b>

Preventive measures

<b>R. 9</b>	<b>R. 10</b>	<b>R. 11</b>	<b>R. 12</b>	<b>R. 13</b>	<b>R. 14</b>
<b>C</b>	<b>LC</b>	<b>LC</b>	<b>LC</b>	<b>LC</b>	<b>C</b>
<b>R. 15</b>	<b>R. 16</b>	<b>R. 17</b>	<b>R. 18</b>	<b>R. 19</b>	<b>R. 20</b>
<b>PC</b>	<b>LC</b>	<b>NA</b>	<b>LC</b>	<b>C</b>	<b>LC</b>
<b>R. 21</b>	<b>R. 22</b>	<b>R. 23</b>			
<b>C</b>	<b>PC</b>	<b>PC</b>			

Transparency and beneficial ownership of legal persons and arrangements

<b>R. 24</b>	<b>R. 25</b>
<b>PC</b>	<b>LC</b>

Powers and responsibilities of competent authorities, and other institutional measures



<b>R. 26</b>	<b>R. 27</b>	<b>R. 28</b>	<b>R. 29</b>	<b>R. 30</b>	<b>R. 31</b>
LC	C	PC	C	C	C
<b>R. 32</b>	<b>R. 33</b>	<b>R. 34</b>	<b>R. 35</b>		
LC	C	LC	LC		

International cooperation

<b>R. 36</b>	<b>R. 37</b>	<b>R. 38</b>	<b>R. 39</b>	<b>R. 40</b>
LC	C	C	LC	LC

## MUTUAL EVALUATION REPORT

### *Preface*

34. This report summarises the AML/CTF measures in place as at the date of the on-site visit, carried out on January 6–17, 2020. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the AML/CTF system, and recommends how the system can be strengthened.

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

36. The evaluation was conducted by an assessment team consisting of: Ada Mass Herrera, (International Cooperation Specialist of the Financial Intelligence Unit of Honduras, operational expert), Enzo Paredes Castañeda, (Liaison and Cooperation Coordinator of the Prevention, Liaison and Cooperation Department of the Financial Intelligence Unit of Peru, legal-operational expert), Júlio dos Santos Rodrigues, (Supervisory Analyst of the Financial Intelligence Unit of Brazil, financial expert), Pelagio Alcántara Sánchez, (Director of the Department for the Prevention of Stock Market Crime at the Superintendence of Securities of the Dominican Republic, financial-legal expert), René Fernández Bobadilla, (Executive Secretary of the National Anti-Corruption Secretariat of Paraguay, legal expert) in the respective assessment team, and Juan Cruz Ponce (Deputy Executive Secretary), Gabriela Rodríguez (Technical Expert) and Juan Manuel Portilla (Technical Expert) of the Executive Secretariat of GAFILAT. The report was reviewed by the FATF Secretariat and by Eugenio Rodríguez Zumbado (General Superintendence of Financial Entities of Costa Rica), Bruno Menat (Financial Advisor, Ministry of the Treasury of France), Diana Lucía Yon Véliz (Superintendence of Banks of Guatemala), and Armando Torres Aguirre (General Directorate of Investigation of Financial Operations of Cuba).

37. Chile was previously subjected to a mutual evaluation of GAFISUD (now GAFILAT) in 2010, which was carried out in accordance with the 2004 FATF Methodology. The evaluation dated on December 2010, was published on the GAFILAT site and is available at the following link: <https://www.gafilat.org/index.php/es/biblioteca-virtual/miembros/chile/evaluaciones-mutuas-3/90-chile-3ra-ronda-2010/file>

38. The mutual evaluation concluded that the country had met 6 Recommendations; mostly met 20; partially met 12, and not met 2.

39. Chile was placed under the enhanced follow-up process after the adoption of its third round Mutual Evaluation Report in December 2010. In compliance with GAFILAT's procedures, Chile submitted six-monthly reports on the progress made in these recommendations. Accordingly, in December 2013, it was decided to remove Chile from the Enhanced Follow-Up Process.

## CHAPTER 1. ML/TF RISKS AND CONTEXT

40. The Republic of Chile (hereinafter, Chile) is located on the southwestern edge of South America, and its area covers 2,006,096.3 km<sup>2</sup>. Chile borders Peru to the north, Bolivia and Argentina to the east, the South Pole (Chilean Antarctic Territory) to the south, and the Pacific Ocean to the west. Its coast has an extension of more than 8,000 km. The country has a population of 19,107,216 inhabitants.<sup>1</sup>

41. As far as the form of government is concerned, Chile is a unitary and democratic state. The powers of the State are divided into the Executive, Legislative, and Judicial branches. The President of the Republic is elected by direct popular vote, is the Chief of State and is responsible for the government and administration of the State. The political and administrative division of Chile comprises 16 regions, which are subdivided into 56 provinces and 346 communes. Each region is managed by an intendant appointed by the president, while the provinces are managed by a governor and the communes by a mayor, who are elected by popular vote.

42. The Legislative Power consists of 50 senators and 155 deputies, who are elected democratically. The Judiciary consists of the Supreme Court, 17 courts of appeal and the trial courts. Within each region there is a court of appeal and within each commune there is at least one trial court or court of first instance.

43. Furthermore, the Gross Domestic Product (GDP) amounts to USD 294,225,000,000.<sup>2</sup> Meanwhile, the country's per capita GDP is approximately USD 27,124, the highest in Latin America. According to the Human Development Report of the United Nations Development Programme (UNDP), Chile is part of the group of countries which show a very high level of human development. In particular, in the 2018 report, the country is ranked 44th in the world and first in Latin America and the Caribbean.<sup>3</sup>

44. The economic system of Chile is free market, it has an economy open to international trade, and it has been one of the Latin American countries with the fastest growing economy in recent decades, due to a solid macroeconomic framework. This has resulted in a significant reduction in the number of people under the poverty line, from 30 per cent in 2000 to 6.4 per cent in 2017.<sup>4</sup>

45. In addition, the country is an attractive destination for foreign direct investment, due to both the stability of its economy and its great openness to trade, among other relevant factors. According to the World Economic Forum's Global Competitiveness Index 2019, Chile has the most competitive economy in Latin America and ranks 33rd in the world.<sup>5</sup> It ranks 59th out of 190 in the World Bank's Ease of Doing Business Ranking for 2019.<sup>6</sup>

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<sup>1</sup> Projection as of 30 June 30, 2019. Source: National Statistical System of Chile.

<https://www.ine.cl/estadisticas/demograficas-y-vitales?categoria=proyecciones%20de%20poblaci%C3%B3n>

<sup>2</sup> Source: Statistical Bulletin of the Central Bank of Chile, October 23, 2019, Volume 90, No. 1131.

<sup>3</sup> Source: UNDP.

[https://www.cl.undp.org/content/dam/chile/docs/desarrollohumano/undp\\_cl\\_idh\\_2018\\_Human\\_Development\\_Statistical\\_Update.pdf](https://www.cl.undp.org/content/dam/chile/docs/desarrollohumano/undp_cl_idh_2018_Human_Development_Statistical_Update.pdf)

<sup>4</sup> Source: World Bank: <https://www.worldbank.org/en/country/chile/overview>

<sup>5</sup> Source: World Economic Forum. [http://www3.weforum.org/docs/WEF\\_TheGlobalCompetitivenessReport2019.pdf](http://www3.weforum.org/docs/WEF_TheGlobalCompetitivenessReport2019.pdf)

<sup>6</sup> Source: World Bank: <https://data.worldbank.org/indicator/IC.BUS.EASE.XQ?locations=CL>

## *ML/TF Risks and Scoping of Higher-Risk Issues*

### *Overview of ML/TF risks*

46. The analysis carried out by the assessment team was based on the information provided by the country, including the NRA and sectoral risk assessments, information from external sources and international agencies, and the information gathered during the on-site visit. In this context, the following paragraphs list the most important risks identified, considering the impact they may have on Chile's AML/CFT system.

47. In general, as regards money laundering, the NRA points out the use of illegal assets derived from drug trafficking, smuggling, trafficking in persons and corruption, and economic crimes (banking and securities law) as the main risks. There are also significant risks related to drug trafficking committed in bordering countries, as well as the smuggling of metals illegally exploited in other jurisdictions.

48. The main vulnerabilities identified by the assessment team are the following:

- **Financial Sector:** This is a highly developed and large sector, with a stock market whose volume traded is almost equal to the country's GDP. Thus, the sector can be attractive for those who wish to place, stratify or integrate their illicit assets, due to the massiveness of transactions and businesses developed by the sector.
- **DNFBP:** There are sectors not covered by the AML/CFT regime: Lawyers, accountants, and corporate service providers and dealers in precious metals and stones.
- **Free Trade Zones:** These are considered to be a sector with high exposure to ML/TF risk, since—because of their special operating regime where there is intensive use of cash—they could also be associated with the development of illegal foreign trade activities, linked to smuggling, counterfeiting of goods, and tax crime.
- **Transparency in Legal Persons:** Although Chile has established obligations to identify the BO of legal persons and arrangements, as set out in the 2007–2018 ML Typologies and Red Flags Report and the 2018 ML/TF Risk in Legal Persons and Arrangements Report, misuse of legal persons is the second most commonly used typology for ML schemes, and vulnerabilities have been identified in relation to timeliness and accuracy of information.

### *Country's risk assessment & scoping of higher risk issues*

49. Chile has made a significant effort in the identification and assessment of ML/TF risks. In this area, the two National Strategies for the Prevention and Fight against ML/TF and their respective 2014–2017 and 2018–2020 Action Plans, together with the Inter-institutional Agreement adopted by various public institutions for the implementation of the current plan, show a high level of commitment to the fight against ML/TF on the part of Chile. Likewise, the 2014–2020 National Plan against Drugs, the 2015–2018 National Action Plan against Trafficking in Persons, the 2018–2020<sup>7</sup> Open Government Action Plan, and the Northern Border Plan have been adopted, which are to some extent consistent with the risks identified.

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<sup>7</sup> Since 2012, Chile has been part of the multilateral initiative Open Government Partnership, which is part of the agenda for modernising the State. To date, Chile has implemented three Open Government action plans, being the fourth in full development (2018–2020), and Commitment No. 11 of the latter consists of collaboratively building a policy proposal on the creation of a registry of companies' BO. The fulfilment of this commitment is coordinated by the UAF together with other government actors such as the Internal Revenue Service, the Comptroller General of the Republic, the

50. It also has an NRA developed with its own methodology, risk studies related to free zone users (FZUs), non-profit organisations (NPOs), legal persons and arrangements, notaries, among others, in addition to various documents on the risk-based approach, and on typologies and red flags. It should be added that the UAF has a sectoral risk matrix and also an individual ML/TF risk matrix, which enable the UAF to identify each RI's level of ML/TF risk.

51. The assessment team considers the NRA's findings to be to a large extent reasonable, and to allow a moderate understanding of the country's risks. However, the use of illicit assets derived from the crime of fraud has not been identified as one of the money laundering risks with a impact on the system, although this risk has been subsequently addressed by the country through the development of ML typologies and red flags, which are based on convictions. Additionally, in some cases further understanding of some internal risks is considered necessary, such as that of TF and those associated with free zones, FZUs and sectors of greater materiality.

52. In this regard, during the on-site visit and in this Mutual Evaluation Report (MER), the following higher-risk aspects identified in the 2017 NRA were discussed in more detail:

- **Drug Trafficking:** There is a very high risk related to drug money coming from drug-intensive areas, mainly those that are geographically close, with which it shares borders. Likewise, the country's logistical system and trade openness make it attractive for drug exports. Furthermore, the high profitability of the drug trade in Chile makes the jurisdiction attractive for domestic sales, which generate substantial profits that are subsequently laundered. It should be noted that drug trafficking is the prevalent predicate offence in ML convictions (77.8% of the total at the time of the NRA, and 44.7% at the time of the on-site visit).
- **Smuggling:** Chile has extensive trade agreements and free zones with a high use of cash as a means of transaction, so the jurisdiction can be used for the purpose of smuggling goods. Likewise, smuggling is the second predicate offence in the investigations carried out in the country between 2010–2015. It should be noted that smuggling was added as a predicate offence for ML in 2015, and that as of the date of the NRA no sentences had been passed for ML related to this predicate offence. However, the authorities point out that the low rate of informality in the sector's transactions acts as a mitigating factor for this risk. As of the date of the on-site visit, there had been 7 ML convictions related to this predicate offence, which constitutes 7.4% of the total.
- **Trafficking in Persons:** Trafficking in persons is a regional threat. The structural conditions of the Chilean economy, together with geographical factors, may make Chile a favourable jurisdiction for ML related to this crime. There is a low number of criminal prosecutions and convictions associated with this crime.
- **Corruption:** Although the country has positive indicators with regard to corruption, at the time of the on-site visit this crime was present in 32 ML convictions, which accounts for 34% of the total. Furthermore, corruption is a significant regional threat, which, added to the structural elements of the economy and the development of the Chilean financial system, may make the country a favourable jurisdiction for channelling funds emerging from corruption.

## Materiality

53. In terms of the country's production structure, in 2017 the commercial sector comprised 56% of the GDP (including exports and imports of goods and services), while industry accounted for 30% (including mining, manufacturing, construction and others), and agriculture for approximately 4% (including forestry, hunting and fishing, as well as crop cultivation and animal husbandry).

54. Chile has a developed financial system with high transaction volumes. The system is integrated by the banking, pension, securities, and insurance sectors. Total banking assets as at August 2019 amounted to CLP 166,484 billion.<sup>8</sup> With regard to the stock market, as at July 2019, the stock of debt securities amounted to CLP 216,978 billion, equivalent to 111.1% of GDP. This figure represents a large volume of transactions, which is above the levels in the region.<sup>9</sup>

55. Regarding the importance of service activities in the economy, during 2017 real estate activities recorded revenues of CLP 15,500,692,888,000; legal and accounting services CLP 1,491,498,265,000, and gambling activities CLP 703,954,218,000.<sup>10</sup>

56. Chile has two free trade zones (FZ), which were established in the furthest north and south of the country to promote these area's development. The two free zones are the Iquique Free Zone (ZOFRI), in the northern region of Tarapacá, and the Punta Arenas Free Zone, called ZonAustral, in the southern region of Magallanes. Both FZs have sold an average of USD 3.8 billion (ZOFRI) and USD 500 million (ZonAustral) in goods annually, between 2012 and 2014.<sup>11</sup>

57. Chile has high rates of financial inclusion. According to CMF data in 2019, 97% of the adult population has access to some type of financial product. Meanwhile, one third of the population has simultaneous access to credit, savings and cash-management products. Moreover, the use of debit cards as a means of payment amounts to 73%, while the holding of demand deposit accounts amounts to 79%.<sup>12</sup>

58. In terms of payment instruments, the use of cash is the most prominent, although the use of debit cards also stands out (used in 57% of financial transactions). On the other hand, the main payment mechanism in terms of amounts is electronic fund transfers (37% of amounts transacted), followed by credit payment cards (37%), and the use of cheques (13%).<sup>13</sup>

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<sup>8</sup> Source: Fixed Income Securities and Financial Intermediation Market Statistics Results at the end of the second quarter of 2019.

[https://si3.bcentral.cl/estadisticas/Principa1/Informes/CCNN/sector\\_institucional/EMV\\_2019T2.pdf](https://si3.bcentral.cl/estadisticas/Principa1/Informes/CCNN/sector_institucional/EMV_2019T2.pdf)

<sup>9</sup> Source: Fixed Income Securities and Financial Intermediation Market Statistics Results at the end of the second quarter of 2019.

[https://si3.bcentral.cl/estadisticas/Principa1/Informes/CCNN/sector\\_institucional/EMV\\_2019T2.pdf](https://si3.bcentral.cl/estadisticas/Principa1/Informes/CCNN/sector_institucional/EMV_2019T2.pdf)

<sup>10</sup> Source: National Statistics Institute (INE), Tabulated Structural Survey of Information and Communication Services, Business Services, Personal and Social Services, 2017.

<sup>11</sup> Source: World Bank: Chile: Assessment of Free Trade Zones. Final Report. October 2017. <http://documentos.bancomundial.org/curated/es/204581530216027729/pdf/ESP-Reporte-Final-ZFs-Chile.pdf>

<sup>12</sup> Central Bank of Chile. Household Financial Survey. Available at: <http://tiny.cc/79xc7y>

<sup>13</sup> Superintendence of Banks and Financial Institutions (SBIF). Financial Inclusion Report 2019. Available at: <http://tiny.cc/g6s86y>

**Payment instruments:** Include payment cards (debit, credit, and prepaid), checks, electronic funds transfers, automatic payment mandates, and cash drafts. (p. 22)

59. Finally, Chile has high levels of formality in its economy. According to estimates by the Economic Commission for Latin America and the Caribbean (ECLAC), the size of the informal economy in the country in the period 1997–2007 was about 19.3% of GDP, the lowest rate in Latin America.<sup>14</sup>

### *Structural Elements*

60. In terms of political and institutional stability, according to the World Bank's Global Governance Index, the country's score for political stability in 2018 is 61.43/100, which is higher than the average for the region.<sup>15</sup>

61. Meanwhile, the rule of law index is 83.65/100, government effectiveness is 81.73/100, regulatory quality is 88.94/100, and accountability is 82.27/100. These values reflect a high degree of institutionality in the country.

62. Notwithstanding the above, since October 2019 there have been violent social demonstrations and disturbances linked to demands of a social nature (e.g. health, pensions, education, among others). However, although the social disturbances that have occurred have required the use of greater resources by the police forces (Carabineros and PDI) to protect public order, the impact on the national AML/CFT system is not apparent as of the conclusion of the on-site visit.

63. With regard to the judiciary, according to the World Economic Forum, the Chilean judicial system is perceived as one of the most independent in the region, ranking 32nd out of 144 jurisdictions surveyed.<sup>16</sup> Chile has a Constitutional Court, which enjoys independence in accordance with the provisions of the Political Constitution.

64. With regard to the national AML/CFT system, coordination is ensured by the Intersectoral Advisory Committee to Prevent and Combat ML/TF, and the Financial Analysis Unit (UAF) is its executive body. The UAF, the Attorney General's Office, the Central Bank of Chile, the Ministries of the Interior and Public Security, Finance and Foreign Affairs, the CMF, the Superintendences of Gambling Casinos and Pensions, the Internal Revenue Service, the SNA, and the National Service for the Prevention and Rehabilitation on Drug and Alcohol Consumption (SENDA) are involved in the AML/CFT system. Also part of the AML/CFT system are the RIs that report suspicious transactions to the UAF.

65. ML/TF investigations and prosecutions are conducted by the MP, which has specialised prosecutors in the various regions of the country and also a national Specialised Unit on ML/TF, Economic Crimes, Environmental Crimes, and Organised Crime (ULDDECO). The police assist the MP in its investigations. The country has specialised units of Carabineros and the Investigative Police (PDI), whose members participate in criminal investigations under the direction of the prosecutor.

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<sup>14</sup> Economic Commission for Latin America and the Caribbean (ECLAC). 2012. Informality and Taxation in Latin America: The Study of Links for Justice.

<sup>15</sup> Source: World Bank: <https://info.worldbank.org/governance/wgi/Home/Reports>

<sup>16</sup> Source: World Economic Forum: GLOBAL STUDY ON HOMICIDE 2019 Homicide trends, patterns and criminal justice response. [http://www3.weforum.org/docs/WEF\\_TheGlobalCompetitivenessReport2019.pdf](http://www3.weforum.org/docs/WEF_TheGlobalCompetitivenessReport2019.pdf)

66. The State intelligence system is made up of the National Intelligence Agency (ANI), the Defense Intelligence Directorate of the National Defense Staff, the Intelligence Directorates of the Armed Forces and the Intelligence Directorates or Headquarters of the Law Enforcement and Public Security Forces.

### *Background and other Contextual Factors*

67. Chile is perceived as one of the countries with the lowest level of corruption in the region. According to the World Bank's global governance index, Chile scored 81.73/100 in terms of control of corruption.<sup>17</sup>

68. Likewise, according to the corruption perception index developed by Transparency International in 2018, the country has a score of 67/100 and ranks 27th out of 180 jurisdictions, and is the second best in the region (after Uruguay). Chile also has a low homicide rate of 3.5 per 100,000 inhabitants, the lowest in the region.<sup>18</sup>

69. Furthermore, according to the AML Index developed by the Basel Institute on Governance—which measures the risk of ML/TF in 125 jurisdictions on the basis of indicators such as the quality of the AML/CFT framework, bribery and corruption, financial transparency, public transparency, and legal and political risk—in 2019 Chile scored 4.18/10 in terms of risk level, and ranked 104th out of 125 countries assessed (countries are ranked from highest to lowest risk level).<sup>19</sup>

70. In terms of AML/CFT regulation and supervision, the responsible entities are the UAF, the CMF, and the Superintendences of Gambling Casinos and Pensions, among other supervisors. These bodies are responsible for establishing the preventive framework which must be complied with both by financial institutions (FIs) and DNFBPs to adequately develop their preventive measures.

### *Overview of AML/CFT strategy*

71. Chile has developed two National Strategies for the Prevention and Fight against ML/TF, together with their corresponding 2014–2017 and 2018–2020 Action Plans. The 2014–2017 Action Plan established 5 lines of work, 22 goals, and 50 specific actions for its first phase, and 23 for the second. As a result of its implementation, it has been possible to institutionalise a coordination body for the development and implementation of policies (the Intersectoral Advisory Committee to Prevent and Combat ML/TF), to develop training programmes aimed at enhancing the understanding of the ML/TF phenomenon in public and private sectors, to strengthen the control of the cross-border transportation of assets, and to make relevant improvements to the regulations for the prevention and fight against ML/TF (Law 20.818).

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<sup>18</sup> Source: UNODC, <https://www.unodc.org/documents/data-and-analysis/gsh/Booklet2.pdf>

<sup>19</sup> Source: Basel AML Index: 8th edition. <https://www.baselgovernance.org/sites/default/files/2019-10/Basel%20AML%20Index%208%20edition.pdf>

72. Furthermore, the 2018–2020 Action Plan, which was developed based on the results of the NRA and other relevant inputs,<sup>20</sup> establishes 4 goals, 6 strategic lines and within each line, strategic sub-lines, general actions, as well as specific commitments per institution. In this regard, at the time of the on-site visit, 127 specific commitments were being considered, which corresponded largely to the ML/TF risks identified by the country: Strategic Line 1 (14 commitments), Strategic Line 2 (23 commitments), Strategic Line 3 (22 commitments), Strategic Line 4 (26 commitments), Strategic Line 5 (40 commitments), and Strategic Line 6 (2 commitments).

73. The implementation of the 2018–2020 Action Plan was agreed by various public institutions through an Inter-institutional Agreement, adopted on December 27, 2018, and it does not prevent the addition of new commitments during its implementation (dynamic nature). At the date of the on-site visit, the Plan recorded 41% compliance, 42% of commitments in progress, and 17% pending compliance.

74. In this context, important progress was identified in the area of capacity building, through the development of in-person training programmes and e-learning courses by the UAF; the implementation of ML/TF prevention systems by public bodies; some efforts in supervision (joint audits between the UAF and the SCJ), and operational actions to strengthen property investigation and confiscation (guides and instructions).

75. It should be pointed out that the National Strategy for the Prevention and Fight against ML/TF and its 2018–2020 Action Plan is coordinated with other multisectoral strategies, such as the 2014–2020 National Plan against Drugs, the 2015–2018 National Action Plan against Trafficking in Persons and the 2018–2020 Open Government Action Plan and the Northern Border Plan.

#### *Overview of the legal & institutional framework*

76. Law 19.913 (hereinafter referred to as the AML/CFT Law), which created the UAF, and its subsequent amendments (especially Law 20.818 of 2015, and Law 21.121 of 2018), form the regulatory structure of the National Anti-Money Laundering and Anti-Terrorist Financing (AML/CFT) and Proliferation System, which is composed of three fundamental pillars: Prevention, Detection and Prosecution of ML/TF. The UAF coordinates the national AML/CFT system which, in addition to this agency, it is composed of the following authorities:

- ✓ Attorney General's Office of the Republic
- ✓ Central Bank of Chile.
- ✓ Ministry of the Interior
- ✓ Ministry of Public Security
- ✓ Ministry of Finance
- ✓ Ministry of Foreign Affairs
- ✓ Financial Market Commission
- ✓ Superintendence of Gambling Casinos
- ✓ Superintendence of Pensions
- ✓ Internal Revenue Service
- ✓ SNA

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<sup>20</sup> These inputs are the following: Evaluation of the level of compliance with the previous plan, reports identifying gaps (self-assessments on compliance with the 40 FATF Recommendations), the 2010 MER for Chile, other action plans, and ongoing institutional projects.

- ✓ SENDA
- ✓ All RIs that report ML/TF suspicious transactions to the UAF

77. Under the three pillars of the National AML/CFT System there are features that facilitate and complement its operation. In the area of prevention, both the regulatory bodies, and compliance of RIs and the public sector with the AML/CFT regulations have a role to play. In this regard, those responsible for the regulatory function are the UAF, the CMF and the Superintendences of Gambling Casinos and Pensions.

78. These authorities are responsible for establishing the preventive framework that all RIs must comply with in carrying out adequate customer due diligence (CDD), maintaining special records, and carrying out specific controls on certain customers, services or products. It should be pointed out that dissemination and training activities complement and reassert the preventive scope of the National AML/CFT System.

79. In addition, with regard to detection, when any of the institutions or persons regulated by the AML/CFT Law detects—in the exercise of its activities—some event, operation, or transaction which, in accordance with the regulations and anti-money laundering practices, meets the criteria of “suspicion” of ML, it has the legal obligation to forward this information immediately to the UAF, by means of a STR. The UAF is the authority responsible for developing financial intelligence processes on such records, in order to detect whether there are indications of transactions that may constitute ML/TF, in which case it provides for their immediate referral to the MP.

80. Finally, the investigation and prosecution of ML/TF offences is directed exclusively by the MP. It has specialised prosecutors in the different regions of the country, as well as a specialised national unit—ULDDECO—which provides technical advice to the prosecutors in charge of the cases. In the investigations for ML/TF carried out by the prosecutors, they can always request from the UAF whatever background information they deem necessary for the investigations they conduct. The police also play an important role in assisting the MP in its investigative tasks, and is made up of specialised units of Carabineros and the PDI.

#### *Overview of financial sector and DNFbps*

81. The Chilean financial sector is made up of different entities and its core is made up by the banking sector and the capital market. In the latter, there is interaction between buyers and sellers in the pension, securities, and insurance sectors, and between banks and financial institutions, which make up the financial capital in its various forms. Consequently, the capital market is embedded within the large financial sector, and is key to the country’s growth and development. Additionally, this market is a transfer channel of the monetary policy towards the different economic agents, channelling the effects of the changes made by the Central Bank of Chile regarding the exchange market regulation, interest rate policies and financial regulation.

82. The financial sector in Chile is made up of: Private Investment Fund Managers (AFIP, as per its acronym in Spanish), Pension Fund Managers, General Fund Managers (AGF, as per its acronym in Spanish), banks, commodity exchanges, stock exchanges, clearing houses, insurance companies, savings and credit cooperatives, stockbrokers and securities agents, commodity exchange brokers, issuers of publicly offered securities, issuers or operators of credit cards, payment cards with provision of funds or any other system similar to the aforementioned means of

payment, securities deposit companies, fund transfer companies, as well as leasing and factoring companies.

83. It should be pointed out that although most of the financial sector is under the supervision of the UAF, where it exercises its regulatory, supervisory, and sanctioning powers with regard to compliance with the ML/TF prevention and detection obligations, there are some financial sectors which, while they are required to report to the UAF, also have a prudential supervisor, who is also empowered to regulate, supervise, and sanction them in regard to compliance with their AML/CFT obligations.

84. The DNFBP sector has different roles based on the economic system of the country. In this way, FATF designated economic sectors—such as casinos, property brokers, real estate management companies, notaries, real estate registrars, and auction houses—operate in Chile as DNFBPs. Lawyers, accountants, and corporate service providers and dealers in precious metals and stones are not covered by the AML/CFT legislation.

85. Also, the country decided to incorporate as RIs on AML/CFT matters a set of non-financial businesses and professions (NFBPs) not designated by the FATF, which the country found to carry a risk of being misused for ML/TF, such as: Customs agents, racetracks, professional sports organisations (PSOs), free zone management companies, and free zone users.

86. Depending on the materiality, risk and country context, in addition to the characteristics of the various sectors and the AML/CFT regulatory and supervisory system, the assessment team assigned greater relative weight to the securities, banking, notaries and property brokerage sectors when weighing key issues during the assessment, followed by exchange houses, remittances and casinos; then pensions, insurance and property registrars, and finally the remaining sectors.

#### *Overview of preventive measures*

87. The AML/CFT Law contains preventive measures that must be applied by all RIs. It is the basis for the establishment of the country's AML/CFT Prevention System, through the creation of the UAF and the imposition of preventive obligations on institutions in 38 private sectors of the economy and the entire public sector, whose compliance is supervised by this authority. This law, in addition to criminalising money laundering, establishes a system of exhaustive lists of predicate offences.

88. In addition, there are other specific and complementary measures in other regulatory bodies that strengthen the AML/CFT Prevention System of Chile. In this regard, for example, Law 20.818 strengthens the mechanisms for prevention, detection, control, investigation, and prosecution of the ML offence, thereby introducing important amendments to the AML/CFT Law, such as a substantial increase in the number of RIs that must submit ML/TF STRs by incorporating the public sector as a RI with more than 1,000 State services and bodies, including ministries, councils, governorships, municipalities, and superintendencies; the extension of the list of ML predicate offences, and the establishment of rules to combat TF, such as the freezing of assets of designated persons and entities under United Nations Security Council Resolutions (UNSCRs).

89. Also relevant are Law 20.000 on Drugs, Law 18.314 on Terrorist Behaviours, Law 18.045 on the Securities Market, the General Banking Law, Law 17.798 on Arms Control, the General Customs Ordinance on Smuggling, Law 17.366 on Intellectual Property, the Constitutional Organic

Law of the Central Bank of Chile (Law 18.840), in addition to the Tax Code and the relevant offences in the Criminal Code.

90. RIs should apply a range of preventive measures covering customer due diligence, record keeping, enhanced CDD measures, specific measures relating to politically exposed persons, identification and reporting of suspicious ML/TF transactions, reporting of cash transactions, among others. These obligations are mainly regulated by UAF circulars, although they are also supplemented by regulations of prudential supervisors. With regard to beneficial ownership, only the financial sector is required to identify it, although some DNFBPs, such as real estate agencies and casinos, have developed procedures on their own initiative in this area.

#### *Overview of legal persons and arrangements*

91. In Chile there are legal persons (LPs) whose purpose is to carry out business or commercial activities, and others whose purpose is to perform non-profit activities or functions. The incorporation of legal persons by means of bearer shares is prohibited, and only registered shares are held. There are two types of regimes in accordance with the country's legal framework, a general regime and a simplified regime.

92. LPs under the general regime (approx. 20% of the total LPs) are registered with the Commercial Registry of the Real Estate Registrar and an extract of the public deed is published in the Official Gazette, while LPs under the simplified regime (approx. 80% of the total LPs) are incorporated before the Ministry of Economy. It should be noted that all the basic information on these LPs is kept in a national public register of companies and firms, which is consolidated at the national level and is not subject to publication in the Official Gazette.

93. According to the NRA and the 2007–2018 ML Typologies and Red Flags Report, LPs were identified as frequently used in ML schemes investigated in the country. With regard to the potential abuse of other financial institutions such as NPOs, in particular with regard to TF, the UAF carried out a risk study of this sector and the country is currently implementing measures and outreach initiatives to the sector to strengthen the applicable AML/CFT regime.

94. Unlike the vast majority of countries in the region, the use of other legal arrangements, such as trusts, is not widely used. In this respect, Chilean legislation does not properly provide for the creation of trusts as stipulated in the Hague Convention (for further details see the analysis of Recommendation 25). In this sense, the few trusts that operate in Chile are quite limited and pursue a different purpose than that of the aforementioned convention, resulting in low risk in terms of ML/TF.

95. On the other hand, foreign trusts that do not have domicile or residence in Chile are obliged to register in the RUT registry and to designate and maintain an administrator, representative or agent, natural person who has domicile or residence in Chile, with sufficient power to carry out necessary procedures and declarations before the SII.

96. It is important to point out that some relevant actors are not designated as RIs under the country's legislation. This is the case with lawyers, accountants, and corporate service providers, a situation that represents a major challenge in AML/CFT matters considering the nature of their activities and their role in identifying BO.

97. Without prejudice to the above, it should be borne in mind that although these sectors are not reporting institutions, the participation of these professionals in corporate, real estate, and representation matters is complemented by the necessary participation of public bodies and other agents that are RIs, such as ministries, public services, notaries, real estate registrars, real estate agents, among others, which are not required to identify the BO, but develop other preventive measures.

98. The table below shows the number of taxpayers engaged in activities related to legal and accounting services registered with the Internal Revenue Service effective January 2020:<sup>21</sup>

**Table 1.1. Number of tax intermediaries, lawyers, and accountants**

Description of declared economic activity	No. of Taxpayers
Accounting, bookkeeping and auditing activities, tax consultancy	35,296
Legal Advice and Representation Services	18,345

99. Various types of LPs operate in Chile. By 2019, the SII registered the existence of 624,504 LPs, under the following modalities:

**Tabla 1.2. Number of LPs according corporate type Cantidad de PJ según tipo social**

Type of LP	Number
Limited Liability Company (LTDA)	262.071
Joint Stock Company (SPA)	171.603
Individual Limited Liability Company (EIRL)	118.390
Closed Corporation	40.126
Open Stock Companies	308
Limited partnership with share capital	307
Business partnership	20
Limited partnership	19
Professional Sports Corporation	13
Mutual Guarantee Corporation	3
Other types of LPs	31.644
<b>Total</b>	<b>624.504</b>

*Overview of supervisory arrangements*

100. The AML/CFT supervisory system is composed of the UAF—which is the regulator and supervisor in this field—and the prudential supervisors of the various reporting institutions, who have the power to supervise the ML/TF component within the framework of their prudential supervisions.

<sup>21</sup> The figures presented in table 1.1 include all taxpayers who indicate that they perform the economic activity described. Therefore, it also includes those legal professionals who carry out other activities not related to FATF activities (such as criminal, civil law, constitutional law, labour law lawyers, and lawyers working for the government, etc.).

101. With regard to the financial sector, prudential supervisors are the CMF (through its CMF-Banks, CMF-Securities, CMF-Insurance areas) and the SP. The CMF comprehensively supervises the banking, securities, and insurance sectors, in addition to credit unions that exceed a specific threshold, while the SP supervises PFMs. For the other sectors and DNFBPs, the UAF is the sole AML/CFT supervisor, except for the casino sector, also subject to prudential supervision by the SCJ.

102. The UAF has the capacity to carry out joint supervisions with prudential supervisors. In this regard, the UAF carries out joint supervisions with the SP on the PFM sector, and with the SCJ on the casino sector.

103. With regard to supervision, the UAF has a sound risk matrix, applies a risk-based approach, has specialised staff, and bases much of its work on its technological tools developed for this purpose. On-site and off-site supervisory activities are planned annually on the basis of the results of the risk matrices, past performance, and any request from other authorities or events that indicate that there may be a history of ML/TF.

104. Supervision of all sectors, particularly on-site, is challenging in terms of their scope, frequency, and depth. This becomes even more evident for DNFBPs, where the level of understanding of ML/TF risks is generally more limited compared to the financial sector.

#### *Overview of international cooperation*

105. Chile has a legal framework that allows it to provide a wide range of mutual legal assistance (MLA) and international cooperation in the area of AML/CFT. Cooperation may be provided in accordance with bilateral and multilateral treaties signed and ratified by the country on the matter and, in the absence of such treaties, on the basis of the principle of reciprocity. In this context, international cooperation is a vital tool for Chile to adequately address its ML/TF risks.

106. The Attorney General's Office, through the International Cooperation and Extraditions Unit of the Prosecutor's Office (UCIEX), is the designated central authority in relation to legal cooperation on criminal matters based on international treaties. The role of the MP as a central actor in international cooperation processes, where the focus of the competent authorities is to provide constructive and collaborative assistance, is also highlighted. In general, international assistance is provided on request, and—to a lesser extent—spontaneously.

107. Chilean authorities also make use of international cooperation to make and respond to extradition requests with other countries. In addition, there are 27 bilateral instruments and others with international organisations in the area of international cooperation. In turn, Chile uses other forms of international cooperation in AML/CFT matters such as the exchange of financial intelligence through the Egmont Group.

## **CHAPTER 2. AML/CFT NATIONAL POLICIES AND COORDINATION**

### *Key Findings and Recommended Actions*

#### **Key findings**

- Chile—through the UAF—has made a significant effort in the identification and assessment of ML/TF risks. In this field, the NRA developed with a methodology of its own, risk studies

related to free zone users (FZUs), non-profit organisations (NPOs), persons and arrangements, notaries, among others, various documents on the risk-based approach, and on typologies and red flags can be highlighted.

- The NRA points out the use of illegal assets derived from drug trafficking, corruption, smuggling, trafficking in persons and crimes related to the Law on Banks and Securities Market as the main risks. However, the scope of certain vulnerabilities associated with the lack of coverage of some DNFBPs was not addressed.
- In general, competent authorities have a good level of understanding of the identified ML risks, although there are some limitations with regard to TF.
- The level of general understanding of the risks by the UAF, the MP, the PDI, the Carabineros, the SP, and the SCJ is highlighted. However, there are opportunities to improve the level of understanding of ML/TF risk of some strategically important authorities, such as the CMF.
- Chile has a National Strategy for the Prevention and Fight against ML/TF, its corresponding 2018–2020 Action Plan and an Inter-institutional Agreement for its implementation, which shows a high level of commitment in the fight against ML/TF. Likewise, the 2014–2020 National Plan against Drugs, the 2015–2018 National Action Plan against Trafficking in Persons, the 2018–2020 Open Government Action Plan, and the Northern Border Plan have been adopted, which are consistent with the risks identified to a good extent.
- As regards the implementation of the 2018–2020 Action Plan, significant progress has been made in strengthening capacities, the implementation of AML/CFT prevention systems by public bodies, some supervisory efforts (joint supervisions), and operational actions aimed at strengthening property investigations. However, there are relevant measures pending associated with fundamental deficiencies in the AML/CFT regulatory framework, such as the absence of certain predicate offences for ML, and deficiencies in the criminalisation of TF, among others.
- It is verified that the competent authorities of the Republic of Chile have to some extent focused their resources and efforts to mitigate the risks identified in the NRA and other reports, with opportunities for improvement in some areas, but especially with regard to the scope and depth of supervision, and vulnerabilities associated with the legal framework.
- In general, there is good cooperation and coordination between authorities such as the UAF, MP, Carabineros, PDI, SNA, among others. There is also cooperation within the framework of permanent working groups established for this purpose. Notwithstanding this, there are limitations in terms of coordination and cooperation in the area of TF with the PDI's BIPE, the Carabineros' Intelligence Directorate and the ANI.
- It is noted that the country has largely adopted measures and actions to communicate NRA results, typologies, and relevant red flags to the RIs.

***Recommended Actions***

- Improve the identification of ML risks in the country within the framework of the NRA's update, so that the knowledge about the scope of vulnerabilities associated with predicate offences not covered by the legislation and those related to DNFBPs not included in the AML/CFT system is deepened.
- Strengthen actions aimed at improving the understanding of ML/TF risks by competent authorities in general, and in particular by the CMF and authorities where the greatest challenges have been identified in terms of cooperation and inter-institutional coordination. In this field, it is important to continue with training in e-learning and classroom modalities, ensuring that they are consistent with the ML/TF risks the country faces.

- Continue with the implementation of the 2018–2020 Action Plan, focusing efforts on the implementation of the commitments aimed at overcoming the fundamental deficiencies identified in the AML/CFT regulatory framework, as well as on commitments that are still pending.
- Articulate MP’s efforts so that its measures and processes are more consistent with the average medium TF risk identified by the country.
- Guarantee that the training activities developed by the Judiciary are consistent with the ML/TF risks the country faces.
- Promote the integration and participation of the law enforcement authorities with jurisdiction over TF (PDI’s BIPE, Carabineros’ Intelligence Directorate and the ANI) in the permanent working groups established to coordinate measures and actions of a regulatory, operational, and AML/CFT training nature, according to their areas of competence.

The relevant Immediate Outcome considered and assessed in this chapter is IO.1. The Recommendations relevant for the assessment of effectiveness under this section are R.1–2

**Immediate Outcome 1 (Risk, Policy and Coordination)**

*Country’s understanding of its ML/TF risks*

108. Chile—through the UAF—has made a significant effort in the identification and assessment of ML/TF risks. In this sense, the development of the 2017 ML/TF National Risk Assessment (NRA) based on the information obtained in 2015, with a methodology specifically designed for this purpose is highlighted. In the case of ML, this methodology interconnects quantitative and qualitative information, such as financial intelligence, concluded investigations for ML predicate offences, and ML convictions (2007–2015), among others. With regard to TF, since it is a different phenomenon than ML, the NRA provides for a qualitative analysis.

109. In relation to the ML risk in Chile, the NRA allows to conclude that—in general—it can be considered to be medium level. Within this framework, the threats identified are drug trafficking, corruption, trafficking in persons and migrant smuggling, smuggling, economic crimes (Banking and Securities Law), and the crime against intellectual property; for each threat, classified as current or emerging, risks are identified.

**Table 2.1. - Threats and Risks**

Threat	Risks	Risk Level
Drug trafficking	Laundering of money from the trafficking of drugs from drug-producing countries.	Very High
Drug trafficking	Laundering of drug trafficking money through the use of cash.	High
Drug trafficking	Laundering of money from domestic drug trafficking due to its high profitability.	High
Corruption	Laundering of money from corruption using the financial or real estate market.	High
Trafficking in persons and migrants smuggling	Laundering of money from trafficking in persons or migrants smuggling.	High
Smuggling	Laundering of money from smuggling in cash-intensive free-trade zones.	Medium
Banking and securities law	Laundering of money from violation to the Banking and Securities Law.	Medium

Intellectual property	Laundering of money from violation to intellectual property rights.	Low
Smuggling of metals illegally exploited in other jurisdictions	Laundering of money from smuggling of metals illegally exploited in other jurisdictions.	Very Low

110. With regard to TF, while it was determined that in Chile no TF activities related to UNSCR designated persons or entities have been detected, as a result of the type of open economy prevailing in the country, with high flows of financial transactions, multiple investment products, and a high level of interconnection with third countries—together with the analysis of vulnerabilities and existing mitigating factors—the risk of TF was considered to be medium level.

111. The findings of the NRA are to a good extent reasonable. Notwithstanding the above, based on the information collected during the on-site visit and the data provided by competent authorities, certain issues are considered to have an impact in their scope. On the one hand, not all relevant sectors seem to have participated in the development of the NRA (for example, through the creation of specific working groups or commissions), even though the National Coordination did have access to several statistical databases and registers from the relevant public bodies for these purposes, and to several open sources of information and databases of its own.

112. On the other hand, risks associated to vulnerabilities such as ML/TF criminalisation deficiencies and lack of regulation upon certain DNFBPs, such as lawyers, accountants, and corporate service providers do not seem to have been totally weighed. In relation to the threats that have an impact on the country, the use of illegal assets from fraud as at the date of the drafting of the NRA, and even today, is one of the ML risks with impact on the system, and it has not been identified as such on said document. However, the risks associated with fraud have been addressed in the typologies reports and red flags published subsequently, which are based on convictions.<sup>22</sup>

113. The diagnosis in the NRA is complemented by other relevant elements that have an impact on the identification and assessment of ML/TF risks in the country, such as sectoral risk studies related to FZUs, NPOs, legal persons and arrangements, and the sectors of exchange offices, stock brokers, real estate agents and notaries, in addition to various documents on the risk-based approach, and on ML typologies and red flags that are based on the analysis of final convictions.

114. The FZUs report identifies drug trafficking and smuggling, among other crimes, as the main threats in the Iquique free zone (Tarapacá region), in addition to the risk that FZUs may be misused to conduct ML/TF/PF-related activities and by third parties they transact with, while the NPOs report detects the most vulnerable NPOs for ML/TF purposes and encourages the creation of measures to mitigate identified risks. Moreover, the report on legal persons and arrangements concludes that joint stock companies, civil partnerships, and limited partnerships are at high risk of being misused in ML/TF schemes and offers red flags to prevent LPs' exposure to risk.

115. Furthermore, the development of a sectoral and individual risk matrix by the UAF is highlighted; it has been created on the basis of multiple factors that provide a significant picture on the country's ML/TF risks, transactions, and reporting institutions, among other relevant aspects,

<sup>22</sup> It is worth mentioning that 7 convictions of ML have been sentenced with fraud as the predicate offense, ruled between 2017 to 2019, which, due to the link between the facts of the conviction, are grouped into 5 cases.

which usefulness goes beyond the scope of analysis and provides relevant input for the purposes of supervision and training.

116. In general, and without prejudice to the aspects mentioned as improvement opportunities in the NRA, competent authorities have a good level of understanding of the ML risk, while there are some limitations in relation to the risk of TF. During the on-site visit, a high level of understanding was noticed on the part of the UAF and an asymmetrical level of understanding on the part of other competent authorities, which presents opportunities for improvement.

117. In relation to supervisors, the SP understands to a large extent the risks of ML, while the level of understanding of the CMF varies by sector (CMF Banks has a good knowledge, CMF Insurance has certain knowledge, and CMF Securities has a limited knowledge). The SCJ, however, has a good level of understanding of ML risks.

118. In relation to law enforcement authorities, the MP—especially ULDDECO—, Carabineros (ML Division of the Anti-Drug Units SO7), and the PDI (BRILAC) know to a large extent the risks of ML. The SNA and SII understand the risks of ML to a good extent.

119. Specifically on TF, while the NRA assesses the TF risk level in the light of different factors and elements, competent authorities in general (except the UAF and ULDDECO), do not seem to sufficiently understand the characteristics, red flags, and typologies related to this phenomenon, since they mainly relate it to UNSCR lists. Therefore, there is room for improvement of the level of understanding of the TF risk of certain authorities, as well as its characterisation and differentiation from terrorism.

120. In this context, and without prejudice to the training aimed at the competent authorities in the area of TF, it is noted that since 2014 UAF officials have been part of the teaching team of the National Academy of Political and Strategic Studies (ANEPE), which is a State higher education institution under the Ministry of National Defense, which develops teaching, research, and extension activities, aimed at increasing the knowledge of Defense and Security of personnel of the Armed Forces, the Law Enforcement and Public Security Forces, among others. In this regard, the UAF participates in the teaching of graduate courses in “Multidimensional Security,” “Security in the Modern State,” and “Intelligence Function in the Contemporary State.” A total of 245 officials from the aforementioned authorities have been trained in these activities.

121. Considering the analysed elements, it is appreciated that the country understands its risks of ML to a good extent. Regarding the TF risks, certain limitations exist (please refer to the analysis in previous paragraphs and to the development of IO.9 for more details), although their impact on the general level of understanding in the country is moderate.

#### *National policies to address ML/TF risks identified*

122. Chile has developed two National Strategies for the Prevention and Fight against ML/TF, together with their corresponding Action Plans 2014–2017 and 2018–2020.

123. The 2014–2017 Action Plan established 5 lines of work, 22 goals, and 50 specific actions for its first phase, and 23 for the second. As a result of its implementation, it has been possible to institutionalise a coordination body for the development and implementation of policies (the Intersectoral Advisory Committee to Prevent and Combat ML/TF), to develop training programmes

aimed at enhancing the understanding of the ML/TF phenomenon in public and private sectors, to strengthen the control of the cross-border transportation of assets, and to make relevant improvements to the regulations for the prevention and fight against ML/TF (Law 20.818).

124. Furthermore, the 2018–2020 Action Plan, which was developed based on the results of the NRA and other relevant inputs,<sup>23</sup> establishes 4 goals, 6 strategic lines and—within each line—strategic sub-lines, 45 general actions, as well as 127 specific commitments identified to the date of the on-site visit. These commitments are to a large extent consistent with the ML/TF risks identified by the country: Strategic Line 1 (14 commitments), Strategic Line 2 (23 commitments), Strategic Line 3 (22 commitments), Strategic Line 4 (26 commitments), Strategic Line 5 (40 commitments), and Strategic Line 6 (2 commitments).

125. The implementation of the 2018–2020 Action Plan was agreed by various public institutions through an Inter-Institutional Agreement, adopted on December 27, 2018, and it does not hinder the possibility of adding new commitments during its implementation (dynamic nature). It is relevant to note that, at the date of the on-site visit, the execution of the plan recorded 41% (52) compliance, 42% (53) in progress, and 17% (22) pending compliance.

126. In this context, important progress is noted in the area of capacity building, through the development by the UAF of in-person training programmes and e-learning courses; the implementation of ML/TF prevention systems by public bodies; some efforts in supervision (joint audits between the UAF and the SCJ), and operational actions to strengthen property investigation (guides and instructions).

127. It should be pointed out that the National Strategy for the Prevention and Fight against ML/TF and its 2018–2020 Action Plan is coordinated with other multisectoral strategies, such as the 2014–2020 National Plan against Drugs, the 2015–2018 National Action Plan against Trafficking in Persons, the 2018–2020 Open Government Action Plan, and the Northern Border Plan, which are, to some extent, commensurate with the ML/TF risks identified.

128. However, in the 2018–2020 Action Plan there are relevant measures pending associated with fundamental deficiencies in the AML/CFT regulatory framework, such as the absence of certain ML predicate offences, deficiencies in the criminalisation of TF and targeted financial sanctions, failure to include certain DNFBBPs such as lawyers, accountants, dealers in precious metals and stones, and corporate service providers as reporting institutions, lack of the obligation to identify the BO by DNFBBPs,<sup>24</sup> and AML/CFT supervision, both to the financial and DNFBBPs sectors.

129. In relation to particular sectoral risks, such as free trade zones and their users, the country has adopted measures for their mitigation. For example, FZU were included to the AML/CFT system, and they must enforce preventive measures under the supervision of the UAF. The UAF entered an agreement with the SNA, and they have conducted joint supervisions to the sector. It has also organised training activities for the sector, their operations are supervised, and cooperation between the UAF, the MP, and the police forces exists.

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<sup>23</sup> These inputs are the following: Evaluation of the level of compliance with the previous plan, reports identifying gaps (self-assessments on compliance with the FATF 40 Recommendations), the 2010 MER for Chile, other action plans, and ongoing institutional projects.

<sup>24</sup> Refer to Technical Compliance Annex: R.3, 5, 6, 7, 10, 22, and 23.

130. In general, national policies and activities address to a good extent the ML/TF risks identified by the country, although further work is needed to fully address the vulnerabilities of the system and the elements with pending implementation.

*Exemptions, enhanced and simplified measures*

131. The UAF may, by virtue of the NRA and sectoral RBAs, determine the depth of the CDD measures to be applied by each sector through a Circular (cfr. UAF Circular 59, amending UAF Circular 49, Title III, paragraph 5).

132. In relation to risk management by RIs, UAF Circular 50, paragraph 5 (a) provides that, when ML/TF risks are determined to be high, RIs should apply enhanced CDD measures. Some of the enhanced CDD measures mentioned by the Circular are, among others, the following: Gathering information on the nature of the legal or contractual relationship; gathering information on the source of funds and assets of the customer; and enhancing customers' ongoing CDD measures.

133. Moreover, the same Circular, paragraph 5 (b) sets forth that, when ML/TF risks are determined to be low, simplified CDD measures may be applied, except when there are ML/TF suspicions in relation to the customer.

134. The measures mentioned, however, are not applicable to lawyers, accountants, dealers in precious metals and stones, and corporate service providers since they are not subject to AML/CFT regulations. There is no evidence that the NRA results have been used appropriately to justify the respective exemptions.

*Objectives and activities of competent authorities*

135. The coordinating authority for the development and enforcement of the 2018–2020 Action Plan and other ML/TF prevention, detection, and sanctioning actions is the Intersectoral Advisory Committee to Prevent and Combat ML/TF. Such Committee is made up by 13 public entities, presided by the Ministry of Finance, and the UAF as the secretariat (executive body). As it was verified during the on-site visit, the Comptroller General and the MP also participate in the Committee.

136. In this context, UAF's objectives and activities are generally consistent with the ML/TF risks identified by the country. The work conducted in relation to the operational and strategical analysis and training, and the significant use of computer tools to conduct their duties appropriately is highlighted.

137. Moreover, in the field of ML/TF investigation and sanctions, ULDDECO provides advice and forensic support (asset or tax investigations) to prosecutors. It has a working team to process intelligence information, and the Attorney General has given instructions to prosecutors and passed a Criminal Prosecution National Policy that sets the priorities of their prosecuting work. At the police level, the work of the PDI through the BRILAC and CENACRIM, which monitors criminal impact is highlighted, as well as the work conducted by the ML Division of the Anti-Drugs Unit O.S. 7 that has recently implemented an asset investigation guide for the operational work.

138. Notwithstanding the above, the Criminal Prosecution Policy, which is a dynamic and flexible tool, does not consider TF to be a priority, even when the NRA defined its risk level to be

medium (pages 29 and 30); and training activities in the Judiciary are not consistent with the ML/TF risks identified by the country, even more so when these activities are at the core of the 2018–2020 Action Plan.

139. With regard to other authorities, such as the SNA, SII, SCJ, and SP, they have specialised supervisors or specific ML/TF prevention units. However, in relation to the CMF, while it has the resources, adequate staff, and experience in prudential supervision matters, challenges exist in relation to AML/CFT supervision. CMF authorities understand the ML/TF prevention system supervision as an exclusive responsibility of the UAF, even when the legislation sets forth that it is a shared duty—except in relation to STRs and CTRs.

140. In relation to self-regulatory bodies, AML/CFT measures are not enforceable upon lawyers, accountants, corporate service providers and dealers in precious metals and stones since—under the current legal framework—they are not reporting institutions.

141. In this sense, the objectives and activities of competent authorities are—to a certain extent—consistent with ML/TF risks identified by the country, and with the specific commitments established in the 2018–2020 Action Plan.

#### *National cooperation and coordination*

142. The UAF, in its capacity as the executive body of the Intersectoral Advisory Committee, has coordinated the drafting of the National Strategy for the Prevention and Fight against ML/TF and its 2018–2020 Action Plan. In this field, the work conducted to articulate the participation of 19 public entities—including the UAF—and the adoption of an interinstitutional agreement for its implementation is highlighted. The creation of ongoing working groups with competent authorities to regularly coordinate measures and actions of a regulatory, operational, and educational nature is also highlighted. Among the working groups, the following can be mentioned: Regulatory Updates; Risk-Based Supervision, and PEPs, among others.

143. With regard to ML/TF criminal investigation and sanctioning, there is a good coordination between the UAF and the MP—ULDDECO—through the UAF-ULDDECO Working Group, to improve the use of financial intelligence in investigations and the working meetings between prosecutors and the MP in significant ML cases.

144. In this sense, there is a good coordination between the UAF and the MP—ULDDECO—with the Anti-Drugs Unit O.S. 7 of Carabineros and PDI's BRILAC. The development of the Degree on ML Investigation in the PDI is highlighted, as well as the asset investigation guides used by Carabineros, and the appointment of regular liaison officers from the PDI and Carabineros at UAF offices, which makes police information inquiries easier.

145. Notwithstanding the aforesaid, during the on-site visit limitations in the TF cooperation and operational coordination between the UAF and some competent authorities (the PDI's Bipe, Carabineros' Intelligence Directorate, and the ANI) were noticed.

146. In relation to other authorities, there is a good cooperation and coordination between the SCJ and the UAF (joint supervisions), the SP and the UAF (training sessions), the SNA and the UAF (identification of risks and joint supervision of FZUs), and between the SII with the UAF and the MP (tax information sharing by rank). Regardless of the above, CMF internal coordination

needs to be strengthened (CMF Banks, CMF Insurance, and CMF Securities), and between the CMF and the UAF.

147. In the field of PF, there is the Subcommittee of the UNSCR 1540, where the UAF, ANI, DIRECTEMAR, DGMN, CCHEN, MinDefensa participate, among others, where one of the issues addressed is PF.

148. There is no coordination and cooperation mechanism between self-regulatory bodies and competent authorities on ML/TF/PF matters, since lawyers, accountants, and dealers in precious metals and stones and corporate service providers are not reporting institutions.

149. In this sense, competent authorities coordinate and cooperate to a certain extent in relation to the implementation of the 2018–2020 Action Plan and the definition of activities to fight against ML/TF/PF.

#### *Private sector risk awareness*

150. The UAF has widely disseminated the NRA to the private sector through different mechanisms, mainly by posting it in its web page and including it in its training contents (in person and e-learning), or in joint trainings conducted with prudential supervisors.

151. Moreover, the UAF has shared with stockbrokers, exchange offices, and notaries the outcomes of the sectors' risk studies through in-person training sessions; at said opportunity, an executive summary of the study was provided.

152. The publication since 2013 of reports on ML typologies and red flags based on the analysis of final convictions issued since 2007 on the UAF website is noteworthy.

153. These activities have had a positive impact on RIs, since they have enabled them to become aware of the main risks affecting the country. In addition, they have raised RIs' awareness of the red flags and relevant typologies for detecting suspicious ML/TF operations, as well as for adopting measures to mitigate eventual risks.

154. However, as discussed in Immediate Outcome 4, the level of understanding of risks by the private sector is asymmetrical and varies by sector, with FIs having a higher level of understanding in general than DNFBPs (except for the casino sector, which has a better level of understanding than other sectors).

155. In summary, it is considered that the country has largely adopted actions to make RIs aware of ML/TF risks.

#### *Conclusions on Immediate Outcome 1*

156. Chile has made important efforts to identify its ML/TF risks, mainly through the development of a NRA, risk studies of certain sectors, elaboration of RBAs, typologies, red flags, among others, which allowed most of the competent authorities, but especially the UAF, ULDDCO, the police forces, SP, and SCJ to have a reasonable understanding of the risks they face. In addition, two important national strategies have been implemented in the area of AML/CFT, one of which has already been executed and the other is at a significant level of

progress. These strategies are complemented by the national strategies implemented in the area of drugs and other relevant predicate offences. The country has also undertaken important actions to raise awareness among RIs about the risks they are exposed to, especially through sectoral training and dissemination of the NRA.

157. However, there are some deficiencies that impact moderately in terms of risk identification and coordination among some relevant actors in the CFT system. The participation of all relevant actors in the preparation of the NRA has not been verified (although diverse information sources from said actors have been considered), and risks associated with vulnerabilities such as deficiencies in the criminalisation of ML/TF and lack of coverage of certain DNFBPs have not been totally considered. Furthermore, there are some limitations in the level of understanding of TF in some authorities. Additionally, there are some challenges in the operational coordination between the UAF and certain competent authorities, both in terms of supervision (CMF) and at the level of detection and investigation of TF (ANI, BIPE of the PDI and the Carabineros' Intelligence Directorate). Thus, considering the strengths and opportunities for improvement identified, it is concluded that the system requires moderate measures to improve its identification and understanding of risks, and to coordinate the necessary actions to mitigate them.

158. Therefore, it is concluded that **the Republic of Chile shows a substantial level of effectiveness in Immediate Outcome 1.**

### CHAPTER 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

#### *Key Findings and Recommended Actions*

##### *Key findings*

##### *Immediate Outcome 6*

- The UAF has direct and indirect access to various sources of information, technological systems (Simone, among others) that enable it to carry out timely and quality operational and strategic analysis, and security systems to adequately protect the confidentiality of financial intelligence.
- The UAF produces operational and strategic financial intelligence products and provides the MP with a significant volume of financial intelligence, which provides added value and is positively valued by the prosecutors, who find it useful.
- In the field of STR detection, there has been a significant increase in the volume of STRs in the last two years, which are mostly of medium or high quality. As for the TF reports, although most of them have a high-quality rating, there are certain challenges regarding the scope of the reasons, modalities, or red flags that should trigger a TF STR.
- It can be seen that the MP makes good use of FIRs and complementary FIRs sent spontaneously by the UAF, and it is considered that these support its operational needs. The use of FIRs is noted in a significant part of the cases in ongoing investigations and in convictions for ML in high-impact cases. No intelligence communication has been sent to the MP regarding TF, as there were no relevant grounds.
- With respect to the confidentiality of FIRs, the UAF has security measures and information systems in place that adequately protect their confidential nature, especially when they are sent to the ULDDECO, through a secure electronic channel, and the latter also adopts measures to send them to the prosecutors (institutional e-mail and formal sending). However,

after the criminal investigation is formalised, these reports can be made available to the parties, as they are part of the prosecution file.

#### ***Immediate Outcome 7***

- The system for investigating and prosecuting ML, based on intelligence reports from the UAF and other sources, is managed by the MP, which has investigative and operational police forces—mainly the PDI and Carabineros de Chile—and there is good coordination between these agencies.
- PDI and Carabineros have specialised ML areas, with qualified personnel who largely understand the risks of ML.
- The investigative and operational capacities of both institutions, which carry out property surveys and apply special investigative techniques, should be highlighted. They also have a good coordination with the MP. However, the universe of predicate offences and ML investigations requires greater human and logistical resources to develop a timely investigation in such cases, especially with regard to parallel financial investigations.
- The MP has the ULDDECO, which is comprised of specialised officials and provides advice on technical aspects to the prosecutors who handle ML cases. The existence of specialised units in the field of drugs and corruption is also highlighted.
- There have been several convictions for ML, which are to some extent consistent with the ML risks identified. However, there is still a certain asymmetry between the universe of investigations, prosecutions, and convictions for predicate offences and the investigations, prosecutions, and convictions for ML. In addition, there are certain limitations in the development of parallel financial investigations, which is reflected in the aforementioned imbalance.
- The provision that subjects the maximum ML sentence to that set forth for ML predicate offences has an impact on the effectiveness, proportionality, and dissuasiveness of the sentences. This is particularly relevant with regard to public corruption crimes.
- Due to the fact that the Specialised Prosecutors are not only in charge of ML cases, but also of ordinary crimes, it is necessary to strengthen human and logistical resources in order to provide adequate attention and follow up on ML cases and predicate offences assigned to their offices.

#### ***Immediate Outcome 8***

- The regulatory framework and the authorities of the entities in charge of ML investigation and prosecution are aware of the importance of seizing property and related assets, and there are protocols, handbooks, and best practices focused on that purpose.
- Property subject to confiscation is, to a certain extent, subject to seizures and other precautionary measures, within a system that seeks to ensure—after their identification—the freezing of property and assets, in order to subject them to the outcomes of the criminal process.
- To a certain extent, the judicial system issues sentences for the confiscation of all types of property and assets, which are subject to precautionary custody by the MP or the police, and are subsequently auctioned and funds collected distributed, based on the designated institutions.
- The regulatory system is relatively confusing in terms of management of seized and confiscated property, including an unclear allocation of roles throughout the chain, which hinders proper enforcement of confiscations.

- There is a good control level of cross-border transportation of money and securities. However, this is not reflected in the number of criminal cases prosecuted on the basis of findings from such controls.
- Confiscations are to some extent consistent with the country's risk profile, with a greater presence of drug trafficking, corruption, and smuggling-related seizures, but less so with respect to other high-risk crimes.

### **Recommended Actions**

#### ***Immediate Outcome 6***

- Adopt the necessary legal improvements and/or security measures within the framework of formalised criminal investigations to ensure the strict protection of the confidentiality of FIRs and complementary FIRs.
- Continue with the feedback and training actions aimed at FIs and DNFBPs to continue improving the quality of STRs; particularly, in the area of detection of TF STRs, so that RIs do not associate their detection, mainly, with matches with the UNSCR lists.
- With regard to the MP, continue to strengthen the use of FIRs and complementary FIRs with signs of ML in its investigations, in order to achieve greater results in terms of effectiveness.

#### ***Immediate Outcome 7***

- Strengthen the human and logistical resources of the specialised prosecutor's offices and the ULDDECO so that they can deal more effectively with the workload corresponding to the cases entered into the system.
- Strengthen the investigative capacities and provide human and logistical resources to the police forces to carry out effective parallel property investigations in investigations of predicate offences.
- Strengthen the development of parallel financial investigations by the MP, in order to increase mainly ML investigations in high impact cases or higher risk predicate offences. In particular, improve cooperation and coordination between the Specialised Units of the MP, mainly between ULDDECO, UNAC and UED, in order to further promote parallel financial investigations in cases of high-impact predicate offences.
- Strengthen the application of greater sanctions in the area of ML, in order to guarantee its effective, proportionate, and dissuasive nature.
- Modify the ML legal provision to overcome the identified technical deficiencies. In particular, to broaden the list of predicate offenses to cover all categories required by the international standard, specifically incorporate the specific conducts that are not covered, and to modify the legal disposition that subjects the maximum penalty for the crime of ML to the penalty foreseen for the related predicate offence.

#### ***Immediate Outcome 8***

- Continue strengthening the identification, seizure, and confiscation of the proceeds of crime, especially in cases of ML associated with high-impact predicate offences beyond drug trafficking, corruption, and smuggling.
- Establish mechanisms or adopt measures that ensure the proper management of seized and confiscated property and assets.
- Promote the application of best practices in the different stages, from the identification, securing, sentence, and execution of the confiscated property, which includes the clear

definition of the roles of the bodies involved in each one of them, or the designation of a central authority for this purpose.

- Adopt measures that ensure the effectiveness of the mechanisms for the execution of property, especially real estate, and develop guidelines or protocols so that competent authorities can effectively carry out auctions and dispose of the funds resulting from them.
- Strengthen the mechanisms for analysis and investigation of DPTEs, which mitigate the risk inherent in cross-border transportation of cash and allow for the seizure of related assets linked to ML/TF.
- Establish a centralised and comprehensive statistical system to collect and reflect information on seized and confiscated assets in an accurate manner.

The relevant Immediate Outcomes considered and assessed in this chapter are IO.6–8. The Recommendations relevant for the assessment of effectiveness under this section are R.3, R.4, and R.29–32.

### *Immediate Outcome 6 (ML/TF financial intelligence)*

#### *Use of financial Intelligence and other information.*

159. The UAF was created in 2003 as a decentralised public service, with legal personality and a budget of its own, with the aim of preventing and deterring the misuse of the financial system and other sectors of the economy for ML/TF purposes. It has 69 officers, a Financial Intelligence, and a Strategic Intelligence Division made up by a highly-qualified team of experts.

160. In this sense, its function is to receive STRs and CTRs submitted by RIs. STRs are communicated to the UAF in an expeditious manner and are filed with all information necessary. In this field, as verified during the on-site visit, the UAF has the power to submit STRs in its capacity of public entity-RI, and it has designed a standardised form to facilitate the filing of STR supporting information by RIs from the banking, exchange, and fund transfer companies sectors.

161. With regard to CTRs, RIs must report information on transactions for amounts in excess of USD 10,000 or its equivalent in Chilean pesos, depending on the exchange rate at the day of the transaction.

162. In addition, the UAF has also access to DPTEs required by the SNA to any person who carries or transports cash or bearer negotiable instruments to and from the country in an amount exceeding USD 10,000 or its equivalent in other currency. In the period between 2015 and 2019, 117,174 DPTEs were registered; 112,026 were incoming DPTEs (95.6% of the total) and 5,148 were outgoing DPTEs (4.4%).

163. As regards the financial intelligence process, it should be noted that once the STR is received, it is analysed by the UAF taking into account various internal and external, domestic and/or international databases that allow it to access police and criminal information, immigration information, to identify persons, access to public deeds on the acquisition of property and companies, public purchases, economic, financial and tax profiles, financial statements of public officials or their PEP status. There is a total of 26 databases: 23 from public bodies and 3 from private entities, which come from secret, closed or open sources.

164. In addition, as part of its financial intelligence process, the UAF uses various technological systems and products developed by the strategic intelligence area. In particular, it has

the Strategic Monitoring System (SIMONE), which is a system for continuous and recurrent detection and search of ML/TF risk patterns and typologies, generating automatic alerts to the operational analysis process. SIMONE is capable of analysing more than 60 million records and transactions through various logarithms, sending alerts through interactive visualisations with a high probability of coincidence with any of the programmed typologies, which even allows detecting new cases of intelligence. The use of machine learning technology, linked to artificial intelligence, is a central part of these processes.

165. Likewise, the analysis process is supported by the “Strategic Profile of the Subject Under Investigation,” which is a platform that automatically provides a complete profile of the subject reported in an STR, his/her associates and family network. The profile allows to visualise aspects such as: Identification, commercial, and financial situation, asset situation, high risk factors, declaration of cash bearing and transportation, cash transaction reports/summaries, summary of suspicious transactions of the subject under investigation, networks (including the above). The system provides visualisations that systematise more than 90 attributes (direct and calculated) that allow directing and focusing the hypothesis of a case for the detection of signs of ML/TF.

166. Among the tools for analysis, the UAF has a keyword and VIP payroll search mechanism that is designed so that operational analysts and readers can directly search for certain key words and/or concepts within the UAF database.

167. In addition, the UAF uses a prioritisation scheme based on ML/TF risk, based on a scoring system that allows a score to be given to each STR by evaluating the persons who have been reported in it. The score is awarded based on a combination of more than 40 variables that describe the level of risk that the STR would present.

168. The analysis is also fed by a strategic-operational platform, through which processed information is delivered in 360° visualisation for the different stages of the financial intelligence process. The information displayed includes risk markers and evolution of those reported, synthesis of reporting patterns, informative evolution of the reporting institutions, among other topics. It allows to develop processes of portfolio harmonisation, focus on cases with higher risks, monitoring of risk parameters, among others.

169. At the same time, a system is used that provides a complete summary of the main risk attributes contained in the STR analysis portfolios. It consolidates transactional and risk information of reported and designated individuals. The information is used to define strategies that efficiently address the workload and issues of the various interrelated analysis cases reported.

170. In sum, the STR is subjected to a solid priority assignment and, if applicable, to a complete analysis process with high added value. Eventually, as a result of the analysis, a FIR or complementary FIR with signs of ML/TF is sent to the MP on a confidential basis through the Hermes System.<sup>25</sup>

171. The process of prioritisation of STRs comprises the following stages: (i) Rating of risk and complexity (the report is automatically rated with a risk score to prioritise high-risk cases and evaluate the time frame the case requires), (ii) Quality analysis (comprises the components of

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<sup>25</sup> This system was created by the UAF and allows users from the MP designated for this purpose to download communications from the UAF only by means of an ID and coordinates card, in a secure (encrypted) manner.

integrity, timeliness, and adequacy. The first two are automatic and are performed as soon as the report is received; and, the sufficiency evaluation (high, medium and low) is conducted by any of the three analysts that make up the reading team), and (iii) Risk-based prioritisation and assignment (STRs with the lowest risk and the fewest high-risk marks are sent to the temporary file, while the others are selected for analysis and distributed by the reading analyst to the financial analysts based on their workload).

172. In consequence, in accordance with the tools described, within the framework of the STR analysis process, the designated financial analyst gets a profile of the natural and/or legal persons to be investigated that is automatically generated from the different databases accessed by the UAF. This includes an important volume of information of family, commercial, patrimonial, and legal nature which can be complemented with additional information. FIRs include relevant information on natural and legal persons and associated assets. Based on this information, a working hypothesis is established, and an investigation is initiated. If the hypothesis is proven, the analyst prepares a FIR with signs of ML/TF that is sent to the MP.

173. FIRs automatically trigger a criminal investigation by decision of the Attorney General, and they are allocated a RUC or attached to the investigation opened for the same events. It may happen that more than one FIR (or complementary FIRs) are part of a criminal investigation.

174. Additionally, the UAF has two analysts appointed to monitor, especially, TF STRs. For each TR STR that is filed, a red flag is triggered and sent by e-mail to designated analysts, to the Head of the Computer Division, the Head of Financial Intelligence, and the person responsible for the Operational Intelligence Division; its assessment is prioritised based on several criteria, among them, if the reported subject is an NPO.

175. Moreover, it should be mentioned that the UAF, in the framework of its financial intelligence process, may request the lifting of bank secrecy to the Judiciary in relation to the information that is not included in the CTR filed by the RI from the financial sector or that is held by an institution different than the RI, but anyway related to the STR submitted. The request, based on the information provided by the UAF during the on-site visit, does not include the STR as an attachment, and is processed confidentially by any of the two Court Ministers appointed, who receive the analyst that justifies the request. In the 2015–2019 period, the UAF has made 12 bank secrecy lifting requests, and the authorisation by the Judiciary has been timely granted.<sup>26</sup>

176. In this context, the UAF has sent a total of 347 spontaneous communications with signs of ML to the MP: 240 FIRs, and 107 complementary FIRs, with a significant increase in the last two years. With regard to TF, according to the information provided and the indications of ULDDCO, no communication has been issued to the MP, as there were no grounds. FIRs are useful for the MP, and their layout has evolved over the years precisely to adapt to the work of the MP and optimise their use. FIR templates have been the subject of feedback and coordination

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<sup>26</sup> It should be pointed out that this aspect does not constitute a barrier to access to information, since the UAF already has a high volume of information and sources that it can access to directly and indirectly, among them, information on bank secrecy (STRs and ROEs), which allow it to produce its intelligence without any problems. In this regard, they only go to the judge to request the lifting of certain information that is not included in the CTR (exceptional cases), and the mechanism established for granting it is quick and expeditious (authorisation is obtained within 24 hours). As can be seen, of the total number of investigations carried out by the UAF in five years, it was necessary to deal only with 12 cases, and in all cases the authorisation was granted in a timely manner.

meetings between the UAF and the ULDDECO, which accounts for the cooperation and coordination that exists between both bodies.

**Table 3.1. - FIRs disseminated by the UAF per year**

Year	FIR	Complementary FIRs	Total
2015	37	21	58
2016	35	27	62
2017	48	16	64
2018	64	17	81
2019	56	26	82
<b>Total</b>	<b>240</b>	<b>107</b>	<b>347</b>

177. In the same way, the UAF shares information with the MP by responding to information requests. These are requests on the CTR, the DPTE, information from abroad, and relations related to natural or legal persons made by the prosecutor directly or through the ULDDECO in the course of an investigation for ML/TF. It should be noted that the UAF, as indicated at the on-site visit, has a designated financial analyst and two assistants to deal with these requests.

178. In the period between 2015 and 2019, the UAF has responded to a total of 434 information requests associated with 296 RUCs. These requests were related to queries from 4,712 individuals and companies, and were answered in an average time of 8 days. Both FIRs and the information requests are largely used by the MP in the framework of its investigations for ML and associated predicate offences, which also includes the asset-tracing component.<sup>27</sup>

**Table 3.2. - Information requests answered per year**

Year	Answered requests
2015	41
2016	94
2017	94
2018	105
2019	100
<b>Total</b>	<b>434</b>

179. Along these lines, it can be seen that the UAF has direct access to various sources of information, and has technological tools (Simone, among others) that allow it to carry out operational and strategic analyses in a timely and quality manner. The UAF also has security systems to adequately protect the confidentiality of financial intelligence. Moreover, it provides the MP with a significant volume of financial intelligence.

<sup>27</sup> It should be added that asset tracing is strengthened through access to the different databases that allow for the identification of such assets by the UAF, and also through property surveys of the MP, and property investigations carried out by the PDI within the framework of the investigations.

180. With regard to strategic intelligence products, the UAF has produced numerous relevant studies, including ML/TF risk studies of LPs, free zone users, sectoral studies, red flags, and typologies, all of which have been positively evaluated. The SIMONE also provides relevant strategic information that strengthens the operational analysis of the UAF.

181. As an example of the strategic intelligence products relevant to this Immediate Outcome, the “Fifth Report on Money Laundering Typologies and Red Flags in Chile” stands out, which analyses the 107 convictions passed between 2007 and 2018 for ML, involving 207 convicted persons.

182. The document, whose development also relied on the collaboration of ULDDECO, analyses the types of convictions and identifies economic sectors affected, predicate offences, ML mechanisms and modalities, red flags, and typologies detected. The 107 convictions for ML were summarised in 72 cases, from which 84 relevant red flags were identified, many of them associated with customer behaviour and business practices.

*STRs received and requested by competent authorities*

183. In the period between 2015–2019, the UAF has received a total of 20,231 STRs; 20,206 ML STRs and 25 TF STRs, with a significant increase of ML STRs in the last two years. Among the main economic sectors whose RIs have sent STRs to the UAF are the banking sector, casinos, PFMs, remittance companies and credit card issuers or operators, and payment cards with provision of funds or similar.

**Table 3.3. - STRs received per year**

Year	STRs
2015	3,150
2016	3,366
2017	3,903
2018	5,014
2019	4,798
<b>Total</b>	<b>20,231</b>

**Table 3.4. – TF STRs received per year**

Year	STRs
2016	9
2017	5
2018	8
2019	3
<b>Total</b>	<b>25</b>

184. In this area, the UAF has the power to access, without restriction, to the information that the RI considered in order to report the transaction as suspicious. Likewise, it may request from other RIs any additional information that may be necessary to complete the analysis of the reported transaction, or that is required to respond to a foreign request.

185. With regard to the quality of the STRs received, the UAF has a quality indicator, which was prepared between 2017 and 2018, that allows it to provide feedback to RIs on the reports filed.<sup>28</sup> From the information provided (see Table 3.4), it can be seen that 74.9% of FIs' STRs were considered to be of medium or high quality (63.9% medium, and 11% high) and 25.2% were of low quality. As for the DNFBPs, 97.1% were considered medium or high quality (53.4% medium and 43.7% high), and 2.9% low quality.

186. The STR quality index is determined on the basis of three components. The main one is the adequacy rating, which is given by a reading analyst. The integrity and timeliness ratings are added to it, which are obtained automatically on objective variables contained in the STR form. With regard to sufficiency, according to the metric defined by the UAF, findings such as the following have been noted: 87.99% write coherently and are accurate at the time of writing on the case; 73.31% describe section "Expose the acts or transactions classified as suspicious" very well or well; 52.42% describe section "sound judgment and profile" very well or well; 48.76% go into greater depth and explain the type of instruments and mechanisms used beyond what is strictly required; and 42.43% stop to analyse professionally the context and place.

187. As for the TF reports in particular, as indicated in the interviews, both FIs and DNFBPs associate them mainly with the matches in the UNSC lists, and not as part of their analysis process. Nevertheless, of the 25 TF STRs received during the assessment period, 11 were linked to possible matches with the UNSC lists, which constitutes 44% of the total TF STRs, while the rest correspond to other reasons, so that in practice the reception of reports for reasons other than those related to the UNSC lists is verified.

188. In particular, these reports were related to suspicious transactions that were not consistent with the customer's profile and that were linked to NPOs and/or countries with a high risk of TF. These 14 reports were submitted by both FIs (9 banks and 1 exchange office) and DNFBPs (1 casino and 1 registrar). It should be noted, in this context, that the UAF has not received any low quality STRs according to the aforementioned quality indicator. In this regard, 67% were rated as high quality and 33% as medium quality

**Table 3.5. - Quality of STRs (November 2018–June 2019)**

Sector	2018			2019		
	Insufficient (Low)	Regular (Medium)	Acceptable (High)	Insufficient (Low)	Regular (Medium)	Acceptable (High)
<b>DNFBP</b>	6.7%	61.8%	31.5%	2.9%	53.4%	43.7%
<b>Financial Sector</b>	22.0%	59.9%	18.1%	25.2%	63.9%	11.0%
<b>Total</b>	<b>17.6%</b>	<b>60.4%</b>	<b>22.0%</b>	<b>21.5%</b>	<b>62.1%</b>	<b>16.4%</b>

189. In this context, in the field of STR detection, there has been a significant increase in the volume of ML STRs in the last two years, which are mostly of medium or high quality (78.5%) (for more details, refer to the analysis of IO.4). In this regard, it should be pointed out that the fact

<sup>28</sup> It should be borne in mind that work on measuring the quality of STRs began even before the 2018 index was established. In fact, the process of building a quality analysis of the STR started in 2015, which began by producing a descriptive report on the quality of bank STRs. In 2016, it was followed by the review of the existing STRs form fields in terms of relevance and completeness, which led to the amendment of the respective form, until it was consolidated into the currently used indicator.

that low-quality STRs are received does not mean that they do not include the elements necessary for the UAF to deploy its intelligence analysis, since they may have integrity, consistency and accuracy, although with opportunities for improvement.

190. Without prejudice to this, challenges in the area of TF STRs are found. While it is a positive element that no low-quality TF STRs have been received and that RIs tend to identify matches with the UNSCR lists as a trigger for TF STRs, it is necessary to further deepen their knowledge in terms of modalities, red flags or risk factors for TF beyond those related to the lists.

191. It should be noted that, for the purpose of improving the quality of the STRs received, the UAF has made a sustained effort to provide feedback to RIs on how to make a STR, what information should be included therein, and what red flags should be used, thus, in the last five years (2015 to 2019), 11,600 persons from 2,772 institutions have been trained and the e-learning course “Tools for the strategic prevention of money laundering” addressed to compliance officers includes an activity related to the information that must be recorded in the sections of the STR and a mandatory practical exercise on the STR.

192. Likewise, during 2018 and 2019, 11 specific workshops on STR quality feedback were held: 3 in 2018 addressed to money transfer companies, notaries, and banks, and 8 in 2019 addressed to exchange offices and money transfer companies, real estate brokers, gambling casinos, real estate management companies, credit card issuers and operators, pension fund managers, insurance companies, and notaries and registrars.

#### *Operational needs supported by the analysis and dissemination of FIU*

193. The UAF is responsible for receiving, analysing, and sending information to the MP for the detection of ML/TF cases; and, in this context, as has been pointed out, it shares intelligence information through FIRs and complementary FIRs and through responses to information requests.

194. With regard to the use of the 240 FIRs and 107 complementary FIRs (347) by the MP, in the investigation and prosecution of ML and associated predicate offences, the following is verified:

- They have been used in 210 investigations, with a RUC assigned to each of them. In some cases, more than one FIR or complementary FIR have been used.
- Of the 210 investigations, 162 (77.1%) were initiated on the basis of information sent by the UAF and in the remaining 48 (22.9%) the information sent by the UAF has supplemented the cases already initiated by the MP.<sup>29</sup>
- Of the 162 investigations initiated on the basis of the information provided by the UAF, 60 are under investigation (37%) and 22 are currently undergoing criminal proceedings (13.6%): 10 formalised and 12 judicialized, 40 have other deadlines (24.7%), 30 have a

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<sup>29</sup> It should be pointed out that, in accordance with Communication No. 77/2019 of the Attorney General’s Office, FIRs automatically trigger the initiation of an investigation that has not been formalised (RUC), and if there is one in progress, such information is added. Consequently, the Prosecutor is not empowered to decide whether or not to initiate an investigation but is rather required to initiate one.

conviction (18.5%), 7 are reserved (4.3%), 2 are definitively dismissed (1.2%) and 1 is suspended on probation (0.6%).<sup>30</sup>

- Of the remaining 48 investigations initiated by the MP, but which were informed by the UAF, 21 are in force (43.8%), 12 have a conviction (25%), 10 have other deadlines (20.8%), 3 are identified as reserved (6.3%), 1 with a final acquittal (2.1%), and 1 with a conditional suspension (2.1%). Meanwhile, of the 21 investigations that are currently in force, 13 are non-judicial (61.9%), 4 judicial (19%) and 4 formalised (19%).

195. With regard to the use of the responses to information requests by the MP, this information has been used in 296 investigations. Of this total, it is verified that: 91 are under non-formalised investigation (30.7%), 52 are undergoing criminal proceedings (17.6%): 30 have been formalised and 22 have been prosecuted, 59 have been convicted (19.9%), 4 have been conditionally suspended (1.35%) and 3 have been definitively acquitted (1%).

196. In summary, with regard to the proceedings that resulted in convictions for ML, it should be noted that in 73 of the 94 convictions passed between 2015 and 2019 – see IO. 7- intelligence information from the UAF was used, either through FIRs with signs of ML and its related complements, or from information requests sent by the MP to the UAF as part of investigations of ML or predicate offences. That is to say, in 78% of the ML convictions financial intelligence from the UAF was used.

197. In this context, some examples of complex cases with final convictions which were initiated by intelligence communications from the UAF, (FIRs and complementary FIRs), such as the *Verde Austral*, *Chupete*, and *Lingote de Oro* cases, are highlighted. In all cases, especially the *Verde Austral* case, the UAF's FIR was of great importance to the development of the investigations.

### Box 1 - Success cases in the use of financial intelligence

#### **Verde Austral Case - Core; Inapaimilla and Current Account Holders - Secondary)**

It involves a criminal organisation within a LEA in Chile, which, for more than 10 years, misappropriated CLP 28,348,928,198 (approximately USD 40,498,469), through at least 10 identified modalities and with the participation of more than 100 people, among active and retired public officials, and civilians. A mechanism for collecting and redistributing money was used, in which the accused provided their bank accounts and products to different members and leaders so that they could be used to subtract millions of dollars in public funds, with the necessary safeguards to avoid being discovered by internal and external control agencies.

As of December 2019, and as a result of 20 sentences, there are a total of 94 people convicted: 87 for ML and 92 for misappropriation. The confiscation of CLP 109,299,656 (approximately USD 156,142), 5 properties and 16 vehicles was ordered; and a compensation of CLP 500,519,494 (approximately USD 715,028) has been imposed.

#### **El Chupete Case**

It involves a criminal organisation made up of 3 individuals engaged in illicit drug trafficking in the southern sector of the Metropolitan Region. CMMS was in charge of the acquisition of different types of

<sup>30</sup> In the Chilean criminal procedure system, the investigation in the de-formalised stage is reserved and has no time limit; and, in the formalised stage, it loses the confidentiality for the parties and is subject to a maximum time limit of 2 years.

drugs, while his partner was in charge of security and sales. Within this framework, LALD collaborated with the leader in the transfer of drugs to storage centres in the southern area of Santiago. The manoeuvres used to conceal the illicit income obtained were the following:

- CMMS and LALD went to a casino on different occasions to buy chips with low denomination cash and later exchanged them for high denomination cash, without even gambling.
- CMMS established the front company dedicated to the purchase and sale of vehicles, registered a false domicile and simulated purchase operations of 03 vehicles. It was advised by the accountant JISM.
- CMMS registered important cash deposits in his bank accounts, which in part were allocated to gambling casinos.
- CMMS purchased 4 vehicles under his name, while 2 other vehicles purchased to a car dealer were registered in the name of a third party.
- CMMS purchased a piece of land from a real estate company, which was registered with the Registrar.

Three individuals were sentenced to 5 years and 1 day in prison.

**Lingote de Oro Case**

HEVP led a criminal organisation involving SSRC (his spouse), CERA (father-in-law), JACM and LPMP, which between 2014 and 2016 engaged in smuggling of precious metals, particularly gold.

The organisation acquired the metals, mainly gold (sized in ingots), in countries bordering Chile at a price below the commercial price. The merchandise was hidden in vehicles, infringing the controls of the SNA, and entered through the northern and central areas of the country by land. Once in the country, false information was created in order to give a legitimate appearance to the metals' origin. The documents were related to invoices for purchases in the name of HEVP companies. These constituted inputs to prove before the SNA the subsequent legal exit of the goods from the country, a procedure carried out through a customs agent. In this way, the organisation exported the merchandise through companies related to the metal industry, which were led and legally represented by HEVP, which made tax returns that gave the appearance of legality to the business and reduced the tax burden with false purchase invoices.

In this way, HEVP, together with SSRC, CERA, JACM and LPMP, gained significant profits from the crime of smuggling. Knowing their illicit origin, they devised and implemented mechanisms to launder assets in order to give the appearance of legality to such funds.

Five individuals were sentenced to 5 years in prison and CLP 129,565,670 (approximately USD 185,094) were confiscated.

198. The UAF evaluates the flow of information sent to the MP to improve its FIRs and the responses to information requests through the UAF-ULDDECO Working Group, and—at the case level—in working meetings where the UAF is represented by the financial analyst(s) responsible of the case and the Head of the Financial Analysis Division, and the MP by the prosecutor in charge of the case and the ULDDECO.

199. From the foregoing, it is concluded that FIRs are useful for MP investigations and support to a large extent its operational needs. The appraisal on the quality of these products, both in relation to operational and strategic intelligence, is highlighted as being positive by all recipients and users. These are important inputs for ML investigations, as shown in the statistics presented and the preceding analysis.

*Cooperation and exchange of information/financial intelligence*

200. The UAF cooperates and exchanges financial intelligence with the MP on a regular basis and, to optimise its work, there are regular liaison officers from the PDI and Carabineros at UAF offices, which make police information inquiries easier. Between 2015 and 2019, 2,198 inquiries have been made to the PDI and 77 to Carabineros.

201. Similarly, the UAF has 30 collaboration agreements with public entities, including the SNA, which allows it to exchange information and carry out joint supervisions to FZUs, and the CGR, which allows the transfer of information on public officials for the preparation of PEP Lists.

202. In addition, the UAF, with the collaboration of the ULDDECO, prepares the ML Typology and Red Flags Report, which is based on an analysis of convictions. Similarly—within the framework of the National Strategy working groups—it shares products of a strategic and complementary nature with other competent authorities such as the SII, the SCJ, the CGR, and the SNA, among others.

203. In this context, it can be seen that the UAF and other competent authorities share information, which allows the adequate development of their investigations.

204. With regard to the confidentiality of FIRs, it is noted that the UAF has security measures and information systems in place that adequately protect their confidential nature, such as the segregation of information from the Internet, the traceability of records of deletion attempts and changes made, a closed repository for adding information, the prohibition to access to personal e-mail and social networks accounts and backup servers, among other measures. Moreover, in no case is the STR incorporated into the FIR.

205. FIRs are disseminated by the UAF to the MP through the ULDDECO by means of a secure electronic channel (Hermes System). It should be borne in mind that the STRs are not incorporated or nor are they part of the FIR. The ULDDECO, when it is a FIR associated with an open investigation, delivers it to the competent prosecutor through the institutional e-mail, without prejudice to its formal dispatch (Official Letter and CD). In exceptional cases, due to the amount of information, it only sends it by this means and, when it is a FIR not associated to an open investigation, it delivers it to the regional prosecutor by formal means (Official Letter and CD) or, in exceptional cases, by institutional e-mail.

206. It should be borne in mind that the criminal procedure in Chile is governed by the adversarial accusatory system, in which a principle of objectivity in criminal investigations is applied, as well as a right to defence, which implies an obligation to incorporate all the information received and/or requested, including that of the UAF, to the prosecutor's file. In this sense, although according to article 31 of Law 19.913 the prosecutor may order the secrecy of the investigation for 6 months, which may be extended with judicial authorisation for another 6 months, at the end of this period the defence may have access to the records. Such access is not restricted once the investigation<sup>31</sup> has been formalised and neither in the subsequent stages of the process.<sup>32</sup>

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<sup>31</sup> The formalisation of the investigation, according to the provisions of Article 229 of the Criminal Procedural Code, is the communication made by the prosecutor to the accused in the presence of the Judge of Guarantee, that an investigation is currently underway against him/her for one or more crimes.

<sup>32</sup> It should be noted that after the on-site visit, the MP adopted traceability measures to determine the origin of the eventual leaks. In this sense, the digital copies shared with the parties are folded with specific watermarks for each person and are inviolable.

207. In this sense, since FIRs form part of the prosecutor's file in accordance with the legal framework described, FIRs are available to the parties once the confidential term of the investigation is concluded and/or once it is formalised, resulting in the risk of leaks of the investigation or the information it contains, as has occurred in some mass media cases (e.g. the Verde Austral case, the Caval case), as indicated by the authorities interviewed during the on-site visit, and which have been reported by the UAF.<sup>33</sup> Notwithstanding the foregoing, it should be mentioned that the aforementioned leaks did not imply the exposure of the FIR document, and neither of any STR, since STRs are not part of the FIR. It should be noted that the allegations made, as reported by ULDDECO, have resulted in 2 criminal investigations that at the moment of the assessment were in process.

208. In this context, challenges are noted in terms of protection of the confidentiality of the FIRs or the information they contain by prosecutorial authorities after the confidential term is concluded or once they are formalised. Consequently, there are opportunities for adopting improvements to the legal framework and/or complementary security measures at the prosecutor's level.

#### *Conclusions on Immediate Outcome 6*

209. The UAF has access to a wide range of information sources and produces quality FIRs and strategic intelligence products. These UAF reports are positively valued by law enforcement authorities and largely support their operational needs. The MP requests, receives (including spontaneously) and largely uses financial intelligence and other relevant information to develop evidence in investigations of ML and predicate offences. Most of the ML sentences have been achieved with the use of FIRs provided by the UAF, which also attests to their usefulness. There is fluid cooperation between the UAF and the MP, which is the recipient of its FIRs. There is cooperation between the UAF and the MP, which is achieved through the creation of working groups on complex cases, whose investigation is directed by the MP.

210. The communication of these reports is carried out in a secure and confidential manner, and the MP keeps the report confidential until the moment in which the investigation reservation ceases or it is formalised, when the report can be shared with the defendant. The latter aspect constitutes a challenge, although the UAF has taken some measures to mitigate it and try to safeguard the information and the drafting of the respective report. It should be added that, with regard to STRs sent by RIs, there are still some challenges in terms of quality, although this weakness is monitored by the UAF, which takes ongoing feedback and training measures to strengthen it. The improvements that Chile requires to strengthen its financial intelligence system are considered to be of a moderate nature.

211. Therefore, it is concluded that **the Republic of Chile shows a substantial level of effectiveness in Immediate Outcome 6.**

#### *Immediate Outcome 7 (ML investigation and prosecution)*

##### *ML identification and investigation*

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<sup>33</sup> <https://www.camara.cl/pdf.aspx?prmID=38533&prmTIPO=ACTACOMISION>, pág.61.

212. Chile has a system in place that allows for the detection, investigation, and prosecution of ML cases to a good extent, although there are challenges in terms of the capacity to develop sufficient parallel financial investigations, as will be discussed below. In this regard, it should be clarified that this conclusion has been the result of the analysis of statistics, witness cases, supporting information, and interviews carried out with the competent and law enforcement authorities.

213. The MP is the agency in charge of exercising public criminal action. It directs the criminal investigation that is operationally carried out by the various police forces, pursuant to a specific investigation or instruction order. Each investigation that is initiated generates a RUC at the Prosecutor's Office, which will be an investigation identification number for both the prosecutors and the other operational forces.

214. The country has an accusatory criminal system that includes, in addition to the MP, a Supreme Court of Justice, Courts of Appeals, Oral Trial Courts, and judges of guarantee. The MP has specialised prosecutors appointed to carry out investigations on ML/TF cases. However, they are also in charge of ordinary criminal cases in different regions of the country.

215. The Attorney General's Office, in the last Resolution No. 1820 of September 25, 2017, appointed 97 prosecutors of the different Regional Prosecutor's Offices of the country as specialists in ML. These prosecutors are preferably designated for investigations resulting from FIRs, as well as for cases that are initiated in the regions after the investigation of predicate offences.

216. The Attorney General's Office has the ULDDECO, which provides technical advice to the prosecutors handling the cases. This unit is composed of 10 lawyers, 6 analysis professionals (accountants, auditors, or commercial engineers), 3 asset analysts and 2 computer analysts, in addition to administrative and supporting staff.

217. Moreover, the PDI of Chile, through BRILAC, which depends on the National Anti-Narcotics and Organised Crime Headquarters, receives the requirements of the Prosecutor's Office regarding ML, documenting its findings in a police report that gives an account of all the proceedings carried out.

218. For this purpose, the operational staff is distributed in three working teams (8 officers each), with the most senior officer in charge of organising the specific tasks for the fulfilment of the request, and the final responsibility for what is reflected in the respective police reports, always under the supervision and control of the Deputy Head of Unit, acting in coordination with the Advisory, Control and Case Analysis Group. The Brigade has a total of 35 officers who have professional experience in addition to the police career, such as engineers, accountants, auditors, lawyers, etc.

219. BRILAC has access to numerous databases, which allow it to carry out its investigative functions. In addition, the PDI has the CENACRIM, which is an extremely valuable information system for monitoring trends, strategic analysis, and data. CENACRIM provides information and support to the different brigades of the PDI. It should also be noted that the PDI is the entity with migration control powers, so that this information is integrated into the system and feeds the research. The PDI is currently testing the API system (Advanced Passenger Information).

220. For their part, Carabineros de Chile have the O.S. 7 Anti-Drug Department, which is the operational and technical department that develops investigations directed by the MP, related to ML/TF. In this regard, in 2016, the ML Investigation Division was created, under the O.S. 7 Anti-Drug Department, which is mainly dedicated to the investigation of the ML offence related to the crime of drug trafficking, as well as other predicate offences mentioned in the NRA.

221. The O.S. 7 Anti-Drug Department is composed of an organisation deployed at a national level, translated into 19 provincial sections, starting in the north of Chile, in the city of Arica (XV Region of Arica and Parinacota) and ending in the south, in the city of Punta Arenas (XII Region of Magallanes and Chilean Antarctica).

222. In addition, Carabineros de Chile has another specialised division, which is the O.S. 9 Department of Investigation of Criminal Organisations, an operational division of a technical-scientific nature, which is dedicated to investigating ML, through its Economic Crimes and Anti-Corruption Division, with emphasis on corruption offences, such as bribery, tax fraud, and misappropriation of public funds. The O.S. 9 Department is composed of 6 provincial sections, located in the city of Iquique (I Region of Tarapacá), Antofagasta (II Region of Antofagasta), Valparaíso (V Region of Valparaíso), Concepción (VIII Region of Biobío), Temuco (IX Region of Araucanía) and Puerto Montt (X Region of Los Lagos).

223. For its part, the Maritime Police is in the purview of DIRECTEMAR, which carries out investigations of property associated with criminal organisations that traffic drugs in the maritime jurisdiction and that are the subject of formalised investigation. In 2012, the Division of Special Drug Trafficking Investigations (DIEN) was created, under the General Direction of the Maritime Territory and Merchant Marine, being its area of operation the north of the country, given the increased risk of threat of drug trafficking and ML in that geographical area.

224. ML investigations are generally initiated through three different mechanisms: (a) Ex officio (initiated by the MP), (b) derived from international cooperation processes (generally mutual legal assistance), and (c) derived from a FIR of the UAF. During the period evaluated, the MP initiated 646 investigations for ML.

**Table 3.6. - ML/TF Investigation Sources (2015–2019)**

Source	No. of ML/TF Investigations
Official Letters	388
International Cooperation	96
UAF's FIRs	162
<b>Total</b>	<b>646</b>

225. ULDDCO performs property and tax surveys (preliminary analysis) to be sent later to the corresponding Regional Prosecutor's Office; in this case, the referral is made through optical media or via institutional mail. By decision of the Attorney General's Office, all FIRs from the UAF trigger the initiation of a criminal investigation (official letter FN 077/2019).

226. Likewise, specialised prosecutors in their respective regions may initiate ex officio ML cases, based on the findings of the property investigations and other evidence collected in the investigations of the predicate offences.

227. Based on international cooperation requests, a criminal investigation is initiated in order to provide the requested legal assistance, as well as to determine the possible occurrence of ML behaviours in the country. Another form for initiating investigations is when the victims of crimes of an economic or patrimonial nature file reports or complaints.

228. As for parallel financial investigations, the agencies in charge of prosecution and investigation have procedures and guidelines in place to conduct property surveys, and it can be seen that, over the last five years, BRILAC has conducted 842 property surveys in cases of ML or predicate offence investigations. In addition, Carabineros de Chile has a working methodology that begins with a property survey, for which a Property Survey Guide is used, which contains certain items that facilitate the work carried out by the investigator.

229. The MP has specialised units (Unit against Drug Trafficking (UED), Anti-Corruption Unit (UNAC) and ULDDECO), which have analysis teams to support the property investigation processes from the beginning. Between 2016 and 2019, 5,829 patrimonial surveys have been carried out on natural persons and 1,213 on legal persons, within the framework of the support provided in 960 cases. The following table reflects the property surveys carried out from 2016 to 2019:

**Table 3.7. Property Surveys by the MP**

Property Surveys	2016	2017	2018	2019	Total
RUC supported	295	193	219	253	960
Natural persons	1,453	1,575	1,421	1,380	5,829
Legal persons	231	361	212	409	1,213

230. However, there is not enough consistency between: (i) the parallel property investigations carried out, the investigations initiated and formalised and the convictions for predicate offences, and (ii) the investigations initiated and formalised and the convictions for ML offences (see tables 3.8 NS 3.10-3.11 Below).

**Table 3.8. Convictions for predicate offences**

Offences	2015		2016		2017		2018		2019 (JAN- SEPT)	
	Iniciat ed	Convicti ons	Iniciat ed	Convicti ons						
Corruption	1.225	366	1.368	341	1.473	522	1.544	353	1.203	355
Narcotics	16.414	11.798	17.281	12.656	16.918	12.695	17.521	12.796	14.208	9.050
Economic & tax	23.674	4.510	25.693	4.020	26.342	3.503	31.151	4.279	27.024	3.489
Intellectual property	2.939	1.009	3.047	787	3.172	600	2.664	408	1.410	215

\*Source: 3.777 /Elaborated by the assessment team based on MP statistics.

231. The above could be based on the need for greater coordination and cooperation between the Specialized Units (ULDDECO, UNAC and UED) and greater institutional strengthening of the investigative and prosecutorial bodies, such as Carabineros de Chile and, in some cases, the Regional Specialised Prosecutor's Offices, since although, the Specialised Prosecutors are designated by resolution of the Attorney General, each of them, in addition to the ML cases, is in charge of an average of 2,000 investigations per year.

232. In this regard, there is a considerable asymmetry between the number of cases investigated and convicted for predicate offences and the cases initiated and convicted for ML offences. It is also considered that the technical deficiencies identified in criminal offense in Rec. 3 related to the lack of coverage of certain predicate offenses, may impact on the identification and investigation of ML associated with said threats.

233. The prosecutors of the MP may directly request information from the UAF. The response time to requests ranges from one to ten days. Likewise, there is a secure computer system called “Hermes” through which financial intelligence information is channelled from the UAF to the MP.

234. The MP has a network of interconnections that allows all prosecutors online access to a large amount of information relevant to a ML investigation, such as tax returns, databases such as those of the SRCeI, SNA, national registry of motor vehicles, data from the Property Registrar of Santiago, among others. There are some limitations to the timely collection of data from other property registrars, which do not have an online or computerised system; in such cases, the information is obtained through paper report requests.

235. Collecting banking information to include in a criminal investigation requires the judicial authorisation for the lifting of the bank secrecy. There are short deadlines for its processing. These requests and the judicial authorisation are sent to the banks, so that they can comply with the judicial resolution by providing the requested information. However, the deadlines for the delivery of this type of information to the MP may vary.

236. In the case of complex ML investigations, multidisciplinary investigation teams can be formed where experts from the UAF, PDI or Carabineros de Chile may participate, either as analysts or as experts, a practice that is carried out to the considerable benefit of the findings of the investigations.

237. In this regard, the use of technological tools is also worth mentioning, such as, for instance, the PDI, which uses recording cameras to carry out surveillance, cameras to photograph moments or situations that are of investigative interest, or the system known as SIBI, a platform whereby telephone interceptions that may arise as investigative steps are managed.

238. There are also various precedents in which special investigation techniques have been used, mainly in cases of ML associated with drug trafficking. Likewise, measures of this nature have been applied in cases of ML linked to predicate offences such as bribery, usury, smuggling and criminal association, which are offences that have not a crime penalty.

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

239. According to the 2017 NRA, the main threats identified by Chile are: Drug trafficking (very high to high risk level); corruption (high risk level); human trafficking and migrant smuggling (high risk level); also, smuggling (medium risk level); the Banking and Securities Market Law (medium risk level); intellectual property (low risk level); and finally, smuggling of metals illegally exploited in other jurisdictions (very low risk level).

240. It should be noted that the NRA has not identified as a threat cases whose predicate offence is fraud (see analysis in Chapter 2 of this report). Notwithstanding this, it should be mentioned that, following the publication of the NRA, 7 convictions were issued for ML from the offence of fraud (1 in 2017, 2 in 2018, and 4 in 2019), which were related to pyramid structures. In addition, the risks associated with fraud have been addressed in the typologies reports and red flags published subsequently, which are based on convictions.

241. Between 2015 and 2019, 646 investigations were initiated for ML, as detailed in the following table:

**Table 3.9. ML investigations according to the predicate offence for the period between 2015 and December 2019**

Categories of Offences	No. of cases	% perc.
<b>Illicit trafficking in narcotic drugs and psychotropic substances</b>	<b>131</b>	<b>20.3%</b>
<b>Corruption and bribery</b>	<b>120</b>	<b>18.6%</b>
<b>Investigation of ML to provide mutual legal assistance</b>	<b>96</b>	<b>14.9%</b>
<b>Unidentified</b>	<b>68</b>	<b>10.5%</b>
<b>Law of legal persons' criminal liability: Money laundering</b>	<b>64</b>	<b>9.9%</b>
<b>Fraud</b>	<b>49</b>	<b>7.6%</b>
<b>Economic crimes</b>	<b>29</b>	<b>4.5%</b>
<b>Other crimes (includes those related to other violations of Law 19.913)</b>	<b>25</b>	<b>3.9%</b>
<b>Participation in an organised criminal group</b>	<b>24</b>	<b>3.7%</b>
<b>Smuggling (includes taxes and customs fees)</b>	<b>20</b>	<b>3.1%</b>
<b>Illegal arms trafficking</b>	<b>5</b>	<b>0.8%</b>
<b>Other crimes (includes those related to other violations of Law 19.913)</b>	<b>5</b>	<b>0.8%</b>
<b>Trafficking in human beings and migrant smuggling</b>	<b>4</b>	<b>0.6%</b>
<b>Tax crimes (related to direct and indirect taxes)</b>	<b>2</b>	<b>0.3%</b>
<b>Terrorism, including terrorist financing</b>	<b>2</b>	<b>0.3%</b>
<b>Forgery</b>	<b>1</b>	<b>0.2%</b>
<b>Kidnapping, illegal restraint, and hostage-taking</b>	<b>1</b>	<b>0.2%</b>
<b>Total</b>	<b>646</b>	<b>100.0%</b>

242. Of the cases formalized for the crime of ML, there has been a reduction from 2015 to 2018, which, according to the MP, is due to its complexity, in areas such as those related to crimes of public corruption (misappropriation cases such as that of the Carabineros de Chile or the Army). Likewise, the incidence of “white-collar” economic crimes linked to the Securities Market Law, smuggling or tax crimes is also pointed out. Similarly, the investigation of autonomous ML cases, as well as ML of third parties, is highlighted.

243. As for the predicate offences associated with formalised investigations, drug trafficking has the highest incidence, followed by offences linked to public corruption and economic crimes, as detailed in the following table:

**Table 3.10. Sentences for ML (2015–2019)**

Predicate Offence	Quantity	%
Illicit trafficking in narcotic drugs and psychotropic substances	42	44.7%
Corruption and bribery	32	34%
Economic crimes	11	11.7%
Smuggling	7	7.4%
Criminal association	1	1.1%
Illegal arms trafficking	1	1.1%
<b>Total</b>	<b>94</b>	<b>100%</b>

**Table 3.11. Number of Convicted Persons for ML – (2015–2019)**

Predicate Offence	No. of convicted persons	%
Corruption and bribery	103	46.2%
Illicit trafficking in narcotic drugs and psychotropic substances	74	33.2%
Smuggling	21	9.4%
Economic crimes	18	8.1%
Criminal association	6	2.7%
Illegal arms trafficking	1	0.4%
<b>Total</b>	<b>223</b>	<b>100%</b>

244. Taking into consideration the 2017 NRA -which collects information as of 2015- and other risk studies and typologies prepared by the country, there is consistency among the main threats identified since, from the universe of investigations for ML in the period between 2015 and 2019, it can be concluded that 20.3% relates to drug trafficking, 18.6% relates to corruption, 9.9% relates to criminal liability of LPs (whose predicate offence is mainly bribery), 7.6% of fraud, 4.5% economic crimes, 3.9% other predicate offences, 3.7% participation in a criminal group, 3.1% smuggling, and then there are cases for other predicate offences in percentages below 1%.

245. Moreover, with regard to ML sentences, the same situation is reflected since 44.7% of the sentences correspond to drug trafficking, 34% to corruption and bribery, 11.7% to economic crimes, 7.4% to smuggling, and 1.1% to illicit association and arms trafficking, respectively.

246. As can be seen, ML investigations and convictions largely reflect the main threats affecting the country. However, in the case of trafficking in persons, which was ranked as one of the highest risk emerging threats in terms of ML, there is not a significant number of cases. However, this is due to different elements that have been addressed by the country, which are described below. On the one hand, the crime was considered an emerging threat not because of its incidence or presence at the domestic level but because of the country’s border and logistical characteristics, in addition to the fact that the crime has been identified as an emerging threat at the regional level.

247. On the other hand, in terms of investigation of the crime of ML associated with trafficking in persons, the country reported 16 cases, 10 of which have been completed and 6 have been formalised. In the cases that have been completed, convictions have been secured for the predicate offence and in some cases for criminal association, but no convictions have been secured for the crime of ML, due to the characteristics of the criminal organisations and the absence of relevant assets in the country. Regarding migrant smuggling, 6 investigations were reported and are ongoing.

248. In addition, the country provided evidence on a series of investigations linked to the Dominican Republic, mainly referring to criminal organisations dedicated to the smuggling of migrants and trafficking in persons for the purpose of sexual exploitation. In these cases, convictions have been secured only for the crimes of smuggling of migrants or trafficking in persons, but not for ML, given the aforementioned issues. Although the number of investigations related to trafficking in persons is not high, it should be kept in mind that this is consistent with the nature of emerging threat of the crime.

249. Consequently, it can be concluded that in general terms, Chile investigates and sentences ML cases in accordance with its risk profile.

*Types of ML cases prosecuted*

250. With respect to the types of ML investigated, it is noted that there is a prevalence of cases of self-laundering; however, cases of self-laundering for predicate offences committed in Chile and others whose predicate offences were committed abroad are identified.

251. With respect to prosecutions of cases formalised for ML, it can be observed that convictions represent 83.01% of the cases.

252. A breakdown of the universe of investigations for ML initiated in the period between 2014 and 2018 shows a high number of completed investigations with provisional files, which is a power of the Prosecutor’s Office to close or dismiss the investigation, with the expectation of collecting new evidence. That is, cases in which the prosecutor does not have a record that would allow for the development of activities leading to the clarification of the events.

**Box No. 2 - Case of self-laundering and by third parties**

**“El engaño” Case**

COTV led a criminal organisation dedicated to drug trafficking and, with the purpose of acquiring goods with money of illicit origin, used CFRV, JCRA, JFAP and two other persons as front men. The illegal activity developed by the organisation generated important profits for COTV, given the nature of the business. The profits received by COTV were introduced to the formal economic system through the acquisition of real estate and vehicles in the name of third parties and a shell company, in order to give a legitimate appearance to the assets’ origin. The conviction included penalties between 3 years and 1 day and 8 years of imprisonment, a total fine of 700 UTM (USD 49,623), and confiscation valued at USD 117,102.

**Box No. 3 – Self-Laundering Case**

**“Laguna de Droga” Case:**

Person X and APHJ led a criminal organisation dedicated to drug trafficking, where HRRR, VLHJ and RHNT played different roles. The organisation managed and received the drugs through traffickers from neighbouring countries. Thus, Person X and APHJ managed and controlled the procedures of delivery, reception, and transfer of drugs, direct sale to users, transfer of traffickers and laboratories for storing the substances. As a result of the criminal activity, the organisation received significant amounts of money and property. In order to conceal the real origin of the money and property, sums of money were deposited in current accounts of the organisation's members, a shell company was created and vehicles were purchased in the name of front men and members of the gang.

The conviction included penalties between and 1623 days and 8541 days of imprisonment, a total fine of 191 UTM (USD 13,540) and confiscation valued at USD 20,534.

#### Box No. 4 – Autonomous ML Case

##### **“Hiring” Case:**

BAHM, MVQR and MVOH acted as front men for a Senator of the Republic (Person X), with the purpose of laundering assets from tax fraud. Person X acted through BAHM, MVQR and MVOH for the purpose of concealing the illicit origin of various funds. These funds came from the simulated hiring of services from different professionals, charged to the fiscal budget in support of his function as legislator, money that was actually allocated for his personal benefit. Payments received by the professionals hired for non-existent services were returned to Person X directly and indirectly. In the latter case, BAHM, MVQR and MVOH carried out triangulations with the purpose of separating the money from its true origin.

The conviction included penalties between 729 days and 541 days of imprisonment, a total fine of 15 UTM (USD 1,063).

#### Box No. 5 – ML with predicate offence committed abroad

##### **“Foreign misappropriation of funds” Case (Central American country)**

NPCC, together with her father LACM, in direct knowledge of the illicit origin of the funds obtained by her daughter's partner—a senior public official of a Central American country—participated directly and consciously in the concealment and disguise of the proceeds of crime. NPCC's partner, taking advantage of his senior position in a foreign public institution, entered into several contracts related to service provision with technology companies, accepting multiple bribes. With the purpose of distorting the illicit origin of their wealth, they created a series of fictitious companies, through which they channelled the funds, thus distorting their illicit behaviour. Thus, NPCC received a series of wire transfers and electronic payments from bribes accepted by his partner, who, in order to hide and distort the origin of his income, signed several false contracts to provide services with front companies created by his partner. These resources were invested by NPCC in the acquisition of real estate; among them, two apartments in Santiago and a plot in the commune of Tabo. She also acquired a vehicle for her father, LACM.

The conviction included penalties between and 3 years and 5 years of imprisonment, a total fine of 22 UTM (USD 1,560), and confiscation valued at USD 748,141.

#### Box No. 6 – Complex ML Case

##### **“Verde Austral” Case**

In this case, the crimes of illicit association, misappropriation of public funds and ML are charged. This is the largest investigation for illicit association that the MP has taken to oral

proceedings to date, with 33 defendants facing the same trial. It is precisely the existence and permanence in time of this criminal organisation within one LEA in Chile, that gave place during more than ten years to the misappropriation of \$28,348,928,198 (equivalent to approximately USD 40,498,469), through at least 10 identified modalities and with the participation of more than 100 individuals accused, among active and retired public officials, and civilians. Thus, through a mechanism of collection and redistribution of money designed by the criminal organisation, about 100 accused persons provided their bank accounts and products to different members and leaders of the organisation so that these were used to subtract millions of public funds, with all the safeguards to avoid being discovered by internal and external control bodies. The convictions passed so far (still in process), imposed penalties of between 61 days and 729 days, a total fine of 926 UTM (USD 65,644) and confiscation valued at USD 551,799.

253. With respect to the type of ML investigated and prosecuted, taking into account the period between 2015–2019, it is possible to identify that of the 94 convictions, 47% correspond to cases of self-laundering; 38% correspond to sentences whose facts involve convictions for self-laundering but also third parties’ ML related to the predicate offence; 6% correspond to convictions for ML whose predicate offences were committed abroad; and 9% whose information was not aggregated. Thus, it can be concluded that the country investigates to a large extent the various cases of ML.

*Effectiveness, proportionality, and dissuasiveness of sanctions*

254. With respect to sanctions on individuals, Article 27, final paragraph of Law 19.913 establishes that: *“In any event, the term of imprisonment applicable in the cases referred to in paragraphs a) and b) may not exceed the greatest penalty prescribed by law for the perpetrator of the crime or simple offence from which the property covered by the offence referred to in this Article derives, without prejudice to the fines and additional penalties prescribed by law.”*

255. Therefore, the penalties applicable to ML offences are in the range of 541 days to 15 years for offences committed with intent. For the case of wrongful ML, the penalties applied are between 61 days and 3 years. Of the 94 convictions for ML, the lowest penalty applied was 61 days and the highest was 7, 8, 10 and 12 years of imprisonment. Following the scale of severity of the penalties, there are 12 sentences of 5 years of imprisonment, one sentence of 4 years, and 18 sentences of 3 years; then the penalties are distributed between 2 years up to 61 days; the following average sentences can be concluded:

**Table 3.12. Range of Prison Sentences for ML**

Range of Prison Sentences Applied for ML	Percentage
1 to 3 years	70.4 %
More than 3 years to 5 years	24.2 %
5 years or more	5.4 %
<b>Total</b>	<b>100%</b>

256. As can be seen, a significant majority of the convictions for ML have been for less than 3 years in prison. Thus, there are limitations in the application of sufficiently effective, proportionate, and dissuasive sentences.

257. This rule also has a negative impact on the effectiveness, proportionality, and dissuasiveness of the penalties in cases involving mainly crimes of public corruption, which have a relatively low criminal threshold.

258. It should be noted that the above analysis corresponds to penalties imposed purely and exclusively for the crime of ML. However, in cases in which the person has been convicted of ML in concurrence with another predicate offence, which are approximately 70% of the cases (157 of the 223 persons convicted), the total penalty applied is higher.

**Table 3.13. Range of imprisonment for ML in concurrence with the predicate offence**

Range of imprisonment for ML in concurrence with the predicate offence	No. convicted persons	Percentage
Up to 3 years	84	37.7%
Between 3 years and 1 day, and 5 years	116	52%
More than 5 years	23	10.3%
<b>Total</b>	<b>223</b>	<b>100%</b>

259. As can be seen in the table above, in those cases where the convicted person was also convicted for the predicate offence, the penalty effectively imposed is greater than that corresponding exclusively to ML. Although in the referred cases a more significant total penalty was applied, the penalties applicable for ML continue to present limitations in terms of dissuasiveness and proportionality.

260. Regarding sanctions to LPs, there are no convictions for crimes of ML, however, there are 15 cases of LPs concluded with conditional suspensions of the procedure and convictions in abbreviated procedures for the crime of bribery.

261. In conclusion, with regard to the effectiveness, proportionality, and dissuasiveness of the sanctions, although there are sentences of more than five years' imprisonment, the majority of the penalties applied exclusively for ML do not exceed three years of effective imprisonment. Therefore, it can be stated that the quantum of the penalties applied are effective, proportionate, and dissuasive to a certain extent.

*Alternative criminal justice measures*

262. If a criminal proceeding cannot be concluded with a conviction and the consequent confiscation of the effects and instruments, it is possible to dispose of the property that has not been claimed by its owners or third parties with legitimate rights, in accordance with the provisions of articles 188 and 189 of the Criminal Procedural Code, according to the nature of the property in question. There is an incidental procedure for such a need, being the Judge of Guarantees the competent authority.

263. In this regard, Article 470 of the mentioned CPC states: "Species withheld and not confiscated. After at least six months have elapsed from the date of the final resolution that has terminated the trial, without the legitimate owner having claimed the retained and not confiscated movable tangible property that was at the disposal of the court, it shall proceed in accordance with

the provisions set forth in the following paragraphs. In the case of species, the court administrator, with the agreement of the committee of judges, shall sell them in a public auction. Auctions may be held twice a year. The product of the auctions, as well as the money or securities retained and not confiscated, shall be destined to the Administrative Corporation of the Judiciary. If the temporary suspension or the conditional suspension of the procedure has been decreed, the term indicated in the first paragraph shall be of one year...”.

264. In all cases, the limitation to dispose of this form of forfeiture by abandonment will be the existence of third parties with legitimate rights over the assets, among them even those close to the defendants, such as heirs, spouse, partners, etc., whenever it is not possible to initiate criminal proceedings against them, with the consequent application of the confiscation penalty.

#### *Conclusions on Immediate Outcome 7*

265. Competent authorities in Chile have good investigative capacities in AML matters, especially the technical assistance to specialised prosecutors provided by ULDDECO and other specialised units of the MP. Likewise, it is noted that they understand to a good extent the risks of ML and use various sources of information to carry out their investigative work. Both the MP and the police forces produce property reports and have the possibility of tracing and following the route of the money. As a result of the investigations, several convictions have been issued for ML, which are generally consistent with the country’s risk profile.

266. While it is clear that the country investigates and sentences ML cases in line with the NRA, there are considerable limitations in terms of effectiveness. On the one hand, there is a significant asymmetry between the number of cases of predicate offences and ML cases, which originates in the availability of resources of the MP and the need to have a greater number of parallel financial investigations. On the other hand, it should be noted that the maximum penalties applied for ML are low. In this sense, for example, most of the sentences for ML, exclusively considered, have been less than 3 years in prison, even in cases where the predicate offence was of high impact. In this sense, it is considered that, although detection and investigation of ML exists, major improvements are required, particularly with regard to the availability of resources and the application of dissuasive and proportionate sanctions.

267. In view of the above, Chile shows a **moderate level of effectiveness in the Immediate Outcome 7**.

#### *Immediate Outcome 8 (confiscation)*

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

268. Chile has policies aimed at the confiscation of assets used and obtained by criminals can be identified, and in particular the Policy of Criminal Prosecution issued by the Attorney of the MP, in which crimes related to organised crime such as drug trafficking and ML are prioritised for criminal prosecution. Moreover, economic and corruption crimes that affect the market are also prioritised.

269. There is also a 2016/2022 Strategic Plan of the Chilean Attorney General's Office, which in the axis of effectiveness of criminal prosecution has a priority focus on the prosecution of certain priority crimes.

270. Likewise, the 2014–2020 National Plan against Drug Trafficking, elaborated by the Ministry of the Interior and Public Security, in its line of action 6 formulates the need to reduce the incentives to drug trafficking. In this plan, a series of measures are proposed, the most important of which is the “promotion of timely property investigations in drug trafficking.” It seeks to promote property investigations in the stage of police training and in the development of management indicators so that the investigations of drug trafficking will contemplate this aspect from the beginning. Likewise, the document points out the need to have an adequate management system of seized and confiscated property.

271. The National Strategy for the Prevention and Combat of Money Laundering and Terrorist Financing and its 2018–2020 Action Plan establish as a third strategic approach to property investigation and increasing confiscation. For such purpose, the need to disseminate tools and specialised training in property investigation and to generate a national policy to promote and stimulate the development of property investigation and the increase of seized and confiscated property is identified.

272. Criminal investigations have identified as strategic objectives the confiscation of property related to crime. For such purpose, property surveys are carried out and are supported by information access systems available to prosecutors through ULDDECO, such as the interconnections system, which provides access to various sources such as the SII, which allows to know all the investments made by a subject in a year and to see the companies and tax returns of the subjects under investigation; CMF (Banks), which allows access to a register of all financial institutions where the subject is a creditor or debtor; the SNA, through which the declarations used in the foreign trade process are accessed, among others.

273. Based on the information gathered, which is complemented by the field work carried out by the police, through which they validate the information provided by the property information survey, the prosecutors define the investigative strategy for the case according to the number and type of property that has been identified.

274. This system can be accessed by the assistant prosecutors and the PDI, and the police forces can complement the information with field work, especially oriented to the correct location and identification of assets for the purpose of planning seizures, through the operations carried out in the framework of criminal cases.

275. The PDI and Carabineros de Chile have accounting and auditing experts who, at the request of the Prosecutor's Offices, can intervene in criminal proceedings as experts, for the purpose of consolidating the results of property surveys, quantification, and economic appraisal, etc. Also, other public institutions related to the matter, such as SII, SNA, CMF and CGR, take part in such nature.

276. Likewise, but in a lesser proportion, in some cases, such work is entrusted to private experts, paid for by the MP or by the plaintiffs. ULDDECO also participates in criminal proceedings to provide expert opinions on property matters.

**Table 3.14. Summary of ULDDECO expert reports**

Year	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Total
ML	1	0	1	2	3	5	4	4	0	1	1	0	1	5	22	50

277. The ML convictions that include the penalties of confiscation and fines provide the methodology with objective criteria for the purpose of appraising confiscated property. Given the regulations set forth in the Criminal Code, the powers to pursue the property corresponding to the instruments and objects involved in the crime are broad, where a Ruling of the Constitutional Court, dated May 17, 2018, ROL No. 3639-2017 / INA, may be referred to, that in its Sixteenth recital indicates, “Among the restrictions indicated, it is not possible for the law to enable the fraudulent activity to be a legitimate source of profit; indeed, it must be sanctioned if it affects legal assets that the legislator considers should be protected in defence of social coexistence.”

278. In this sense, the initiatives of the police should be mentioned, such as the so-called ZIAL project, aimed at ensuring that certain real estate property located within the communes that have been prioritised by the government is no longer used to commit crimes, mainly the sale of drugs, and that the necessary investigations are carried out for the crime of ML in order to seize, confiscate and transfer the real estate held by the criminal associations, in charge of the corresponding municipalities.

*Confiscation of proceeds from foreign and domestic predicate offences, and proceeds located abroad*

279. In the process of seizure and confiscation of property, three stages can be identified: The first refers to the identification of property linked to the crime. At this stage, the protocols, handbooks, and systems available to the MP and police authorities for carrying out property investigations are relevant.

280. Once the assets subject to criminal prosecution have been identified, through seizures and other precautionary measures, the procedural law provides for a series of mechanisms that make it possible to secure the assets, ranging from seizures of objects, freezing of funds held in banks and financial institutions, measures that can be taken without prior notification to the affected party.

281. Even if during the investigation of ML crimes the seizure or some real precautionary measure could not be ordered on the property in question, the corresponding court with criminal jurisdiction may order, at the request of the prosecutor and by means of a grounded resolution, the seizure or some of the real precautionary measures established in the law on other property owned by the accused for an equivalent value to that related to the crimes, with the exceptions provided in the law.

282. There is no single procedure for the administration of seized and confiscated assets, nor is there a central authority dedicated to the enforcement of such administration, which creates certain difficulties when it comes to the preservation of the seized assets; and as it will be discussed below, the execution of the confiscated assets.

283. At the prosecution stage, the enforcement of fines and seizures is processed jointly with the judgment of the responsibilities of the perpetrators and other participants to the crime, given the punitive nature of the fines and seizures.

284. With respect to the enforcement of the confiscations, the substantial and adjective norms foresee their application to the property directly linked to ML and predicate offences, their proceeds and those of equivalent value in the cases where they could be seized. Likewise, in cases of conviction for ML, a fine is applicable, which is an ancillary penalty, the amounts of which will be indicated in the following sections.

285. In addition to the precautionary measures and the confiscation that may be ordered in criminal jurisdiction, in Chile there are also seizures carried out through administrative channels. The values seized may be mentioned and arranged according to the entity that has reported them:

**Table 3.15. Annual amount of money seized by Carabineros de Chile for crimes under Law 20.000**

2014	2015	2016	2017	2018	2019	Total
USD 960,867	USD 1,043,909	USD 1,208,895	USD 1,452,078	USD 1,586,418	USD 1,344,018	7,596,185

Note: The exchange rate is considered to be CLP 700 per US dollar.

**Table 3.16. Annual amount of motor vehicles seized by Carabineros de Chile for crimes under Law 20.000**

2014	2015	2016	2017	2018	2019	Total
452	327	298	321	320	327	2,045

**Table 3.17. Annual number of species seized by the Chilean Investigative Police, associated with assets from illegal activities**

YEAR	SPECIES	TOTAL AMOUNT	ANNUAL AMOUNT
2016	MONEY	USD 21,852	USD 295,398
	BANKING DOCUMENTS	USD 36,710	
	JEWELLERY	USD 907	
	VEHICLES	USD 235,929	
2017	MONEY	USD 74,202	USD 615,101
	BANKING DOCUMENTS	USD 12,728	
	JEWELLERY	USD 66,371	
	VEHICLES	USD 6,000	
	LIGHT VEHICLES	USD 310,086	
	HEAVY VEHICLES	USD 145,714	
2018	MONEY	USD 1,875,456	USD 9,291,800
	BANKING DOCUMENTS	USD 175,479	
	JEWELLERY	USD 157,537	
	FURNITURE	USD 1,929	

	WORKS OF ART	USD 50	
	LIGHT VEHICLES	USD 5,679,831	
	HEAVY VEHICLES	USD 1,401,519	
<b>2019</b>	MONEY	USD 837,420	USD 7,582,938
	BANKING DOCUMENTS	USD 163,942	
	JEWELLERY	USD 241,960	
	FURNITURE	USD 1,829	
	WORKS OF ART	USD 1,431	
	LIGHT VEHICLES	USD 5,661,956	
	HEAVY VEHICLES	USD 674,400	
<b>Grand Total</b>			<b>USD 17,785,238</b>

**Table 3.18. Amount of money seized by currency**

Type of Currency	2016	2017	2018	2019
Venezuelan Bolivars	2,331	4,675	20	447,260
Bolivian – Bolivia	21,803	30,346	432,485	43,209
Dollar – Australia	4,920	0	0	0
Dollar – Canada	2,000	0	0	0
Dollar – USA	92,461	90,582	144,394	112,173
Dollar – New Zealand	0	800	0	0
Euros	20,100	1,525	4,705	13,075
Swiss Franc	0	0	200	30
Paraguayan Guarani	4,000	135,100	0	153,000
British Pound	0	0	10	62
Peruvian Nuevo Sol	6,290	10,630	5,301	11,740
Argentine Peso	3,371	39,188	15,145	577,609
Chilean Peso	667,490,894	869,057,293	977,481,600	963,932,117
Colombian Peso	2,279,642	10,384,360	1,890,500	176,000
Dominican Peso	0	0	300	0
Mexican Peso	5,950	690	100,370	20
Brazilian Real	4	238	702	16,557
Uruguayan New Peso	0	350	10	0
Chinese Yuan	5	0	0	0

**Table 3.19. Tax evasion. Customs-Police Procedures. Cigarettes**

Tax evasion (in USD)				
2016	2017	2018	2019	TOTAL 2016– July 2019
25,461,659	44,818,059	63,146,501	57,052,147	<b>190,478,366</b>

**Table 3.20. Money seizure by region in USD**

Region	2014	2015	2016	2017	2018

Arica-Parinacota	61,774	146,297	81,418	95,811	97,734
Tarapacá	108,998	138,043	145,369	140,955	184,961
Antofagasta	80,045	103,383	74,952	102,704	82,776
Atacama	59,781	69,471	45,124	59,685	42,996
Coquimbo	64,684	96,956	78,220	114,781	92,925
Valparaíso	185,424	277,123	234,399	243,340	296,706
B. O'Higgins	77,020	122,109	115,126	128,283	160,527
Maule	95,987	93,540	94,215	90,988	174,226
Ñuble	0	0	0	0	10,584
Bío	120,558	216,444	171,731	362,556	269,399
Araucanía	70,901	38,566	23,380	79,722	52,673
De Los Ríos	18,862	15,225	24,578	29,167	25,763
De Los Lagos	20,336	30,064	43,865	32,278	59,697
Aysén	4,192	3,775	9,464	9,405	20,306
Magallanes	3,478	7,551	3,466	7,177	3,391
Central-North FRM	173,832	254,295	195,823	432,781	310,997
East FRM	168,044	193,398	175,893	226,469	204,745
West FRM	80,184	204,316	318,380	260,806	229,811
South FRM	281,912	463,804	467,012	455,250	632,445
<b>Total</b>	<b>1,676,011</b>	<b>2,474,361</b>	<b>2,302,416</b>	<b>2,872,160</b>	<b>2,952,660</b>

286. With respect to confiscation, results have been obtained in relation to real and personal property, as shown in the following table. Regarding the value of real estate and vehicles, it should be kept in mind that the current valuation system for real estate and vehicles is based on their tax value, which in many cases is significantly lower than the market value. Consequently, the figures shown should be considered as conservative amounts, since in real terms they may be considerably higher.

**Table 3.21. Amounts confiscated for ML, by type (USD)**

Year	Others	Money	Real Estate Property	Vehicles	Total
<b>2015</b>	0	809,971	1,350,557	153,077	2,313,605
<b>2016</b>	23,084	12,408	44,251	146,274	226,017
<b>2017</b>	0	15,338	183,215	69,422	267,975
<b>2018</b>	0	460,163	890,215	500,111	1,850,489
<b>2019</b>	0	745,401	705,947	597,626	2,048,974
<b>Total (USD)</b>	<b>23,084</b>	<b>2,043,282</b>	<b>3,174,185</b>	<b>1,466,510</b>	<b>6,707,060</b>

287. In addition to the administrative seizures and confiscation that may be ordered in the framework of convictions, in ML cases, the legislation provides for the possibility of applying the ancillary sanction of a fine. Within this framework, relevant fines have been applied to 204 of the 223 persons convicted for said crime, according to the detail provided below:

**Table 3.22. Range of fines applied in the context of ML convictions (USD)**

Range of fines	No. convicted persons
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Up to USD 5,000	166
Between USD 5,001 and USD 25,000	26
Between 25,001 and USD 100,000	5
Higher than USD 100,000	7
Total no. of convicted persons	204

288. At this point, it is worth mentioning that there is a great asymmetry between the values shown as seizures and actual confiscations, which, in addition to naturally reflecting the existence of criminal proceedings in progress, identifies an opportunity for improvement in terms of the procedures for achieving the definitive loss of the property by those prosecuted for ML and predicate offences.

289. The Directorate General of Collateral Credit (DICREP) is a State autonomous institution with a social and economic nature, which, in addition to other main functions, acts as an auxiliary organ of the Administration of Justice in the implementation of the actions required of it, in particular to publicly auction seized and confiscated assets, and those for which a judicial decree of early alienation has been issued.

290. As to the type of assets that were seized and subsequently transferred to the DICREP for their disposal in a public auction, the following are mentioned:

**I. Real Estate Property**

- 57 properties have been auctioned during the period 2014–2019.
- 20 properties have been auctioned, 17 of which correspond to convictions for money laundering.
- There are 37 properties that have not yet been auctioned, due to different factual circumstances or regulatory gaps, 31 of which are related to money laundering convictions.
- The total amount of real estate auctions for ML is USD 1,363,778; USD 1,218,747 is the total amount of awards; USD 121,875 is the auction fee that corresponds to DICREP in order to fund operating costs; and USD 23,156 has been generated as VAT.

**II. Personal property, vehicles**

- Regarding 604 vehicles to be auctioned by DICREP’s Office of Fiscal and Judicial Auctions (OFRFJ), in the period 2014–2019, a total capital of USD 1,600,245 was auctioned.

**III. Personal property, other species**

- Regarding the 7,446 species seized and sent to DICREP (either in batches or individually), the amount of USD 889,595 has been successfully auctioned during the period 2014–2019.

**IV. Personal property confiscated for money laundering**

- In this matter, both with regard to vehicles and other species, the auctioned value was USD 148,944, with respect to OFRJ auctions.

**V. Confiscated Personal Property Auctioned by DICREP’s Credit Units**

- The Credit Units are the local executive bodies in which the collateral credit operations carried out by the Directorate, the auctions and other activities related to the above are carried out.
- Outside the Metropolitan Region, Credit Units are in charge of conducting the corresponding judicial auctions. Within the Metropolitan Region, this task is centralised by the ORFJ.
- According to information from the Credit Units outside the Metropolitan Region, the capital auctioned for judicial auctions was USD 1,528,425.

291. With regard to the administration and management of confiscated assets, the DICREP is part of a “Technical Committee for Seized and Confiscated Property” along with other institutions, namely: PJud, MinInt., MP, SNA, UAF, SRCeI, and CDE. These institutions look for ways to collaborate and fill gaps in the execution of seized and confiscated property, both movable and real estate.

292. DICREP is a self-financed institution that does not receive direct contributions from the State. In the area of judicial auctions, both those related to ML and others, the regulations that govern it provide for a percentage of up to 10% commission on the price of the award. With respect to real estate, Article 22, paragraph 2 of Decree 12/2010 states that *“The costs and expenses necessary for the alienation shall be understood to include those corresponding to the correct administration of the assets, meaning their maintenance and conservation, in accordance with their nature, use and destination, which must strive to maintain their productivity and quality, for which purpose the assets must be inventoried and materially and legally preserved.”*

293. Whereas, if the crime prosecuted is related to ML, the proceeds of the public auction are deposited in a special fund of SENDA, with the purpose of being used in programs for the prevention of drug consumption, treatment and rehabilitation of persons affected by drug addiction; and in the case that they are not related to the crimes regulated herein, the resources obtained from the sale at public auction will be used by the Administrative Corporation of the Judiciary.

**Table 3.23. Amount of money received annually by SENDA**

	2014	2015	2016	2017
<b>Comprehensive Management Balance</b>	<b>USD</b>	<b>USD</b>	<b>USD</b>	<b>USD</b>
<b>Resources from the enforcement of Law 20.000</b>	3.477.837	3.906.674	5.631.553	3.617.761

294. In the execution stage of the confiscations applied, some difficulties have been noted in relation to real estate, linked to their occupation and the procedures for their effective takeover by the State, as a prerequisite to the auctions. This is also due to the relatively unclear applicable legislation and the lack of a single authority in charge of the management of seized and confiscated property, as well as to the unclear definition of the roles played by each entity involved in the different stages.

295. The existence of international cooperation cases in which significant seizures and confiscations have been achieved, above one million dollars, is highlighted:

- ✓ Clan Mazza Case
- ✓ Honduras Case
- ✓ Yaupel Case
- ✓ Oro Case
- ✓ Verde Austral Case
- ✓ La polar Case.

**Box No. 7 - Successful cases in which relevant confiscations have been achieved**

<b>Mazza Case:</b>
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A criminal association dedicated to international drug trafficking made substantial profits from the sale of drugs in Europe. Such revenues were converted into high-denomination euro banknotes. These bills were physically transported by travellers to Colombia and from there to Exchange Offices located in Chile, generally passing through Peru as a stopover. In Chile, the assets were received by a foreign exchange, which in turn sent the bills in suitcases to a foreign exchange office in Los Angeles, USA. The bills were then exchanged into US dollars and transferred to the Chilean foreign exchange account in the US. The cycle closes with the transfer from these accounts to Colombian Exchange Offices and from these to their owners, Colombian drug traffickers. As a consequence of the investigations carried out by Chile and the United States, the United States government transferred to the Chilean State Defense Council the amount of almost USD 1,780,000, equivalent to half of the money that was seized upon the dismantling of what is considered one of the largest money laundering operations coming from drug trafficking.

**Verde Austral Case:**

In the case described earlier, the amounts involved in the repeated crimes of misappropriation of public funds by the defendants generated millionaire profits for at least CLP 28,348,928,198, equivalent to approximately USD 40,498,469. Part of such profits were later stratified and integrated into the formal economic system through acts of concealment or disguise of their illicit origin, committing the crime of money laundering under different modalities. The property under precautionary measures and the money seized consist of: 268 properties, including real estate and vehicles, either because they are related to the crime (in which case a request for confiscation will be made); or to guarantee the rights of the victim (through a civil suit filed by the CDE at the appropriate time); 119 properties under precautionary measures held by the MP; 149 vehicles under precautionary measures held by the MP, both of natural persons (110 vehicles) and legal entities (39 vehicles). Money to be recovered is CLP 1,865,439,589 (USD 2,664,914) and bank withholding: About CLP 125,162,976 (USD 178,804) has been withheld from bank accounts and time deposits. Seizure in Punta Arenas' fiscal account: A total of CLP 506,673,991 (USD 723,820) has been seized, which includes cash deliveries by defendants, seizure of cash vouchers, and the early alienation of 7 horses.

**Box No. 8 - Case in which the confiscation and sharing of assets has been ordered**

**Central American country Case:**

NPCC, together with her father LACM, who was directly aware of the illicit origin of the funds obtained by her daughter's partner, a senior public official of the Republic of Honduras, participated directly and consciously in the concealment and disguise of the proceeds of illicitly obtained funds. NPCC's partner, taking advantage of his senior position in a foreign public institution, entered into several contracts related to service provision with technology companies, accepting multiple bribes. With the purpose of distorting the illicit origin of their wealth, they created a series of fictitious companies, through which they channelled the funds, thus distorting their illicit behaviour. Thus, NPCC received a series of wire transfers and electronic payments from bribes accepted by his partner, who, in order to hide and distort the origin of his income, signed several false contracts to provide services with front companies created by his partner. The services contracted by NPCC were never carried out and were merely a screen to justify their increase in wealth. The funds received by NPCC came mainly from accounts associated with shell companies created by his partner, including savings accounts. The latter were used to divert attention from their actual use. Among the means used by the convicted persons there were wire transfers and international on-demand vouchers, given the bank accounts that the couple held in the United States and Panama. Likewise, for the direct channelling of funds, cash drafts were

used, for which an exchange office registered in Chile was used. These resources were invested by NPCC in the acquisition of real estate; among them, two apartments in Santiago and a plot in the commune of Tabo. She also acquired a vehicle for her father, LACM. The latter, aware of the illegal acts carried out by his daughter's partner, directly asked the couple for money to invest in the purchase of a truck for their recently created transport company. The funds were sent through money orders channelled by the same exchange office.

296. Based on the above, it is noted that there is a policy of seizure and confiscation of goods acquired by the criminals, which translates into the application of precautionary measures to all types of assets, which once the proceedings are completed are subject to auction by the Chilean authorities. Additionally, the country is also making significant confiscations in terms of ML of the proceeds of domestic crimes, and there are also confiscations in cases where the predicate offence was committed abroad. In addition, there are cases in which assets have been shared with foreign counterparts. However, there is a significant asymmetry between the assets seized and those that are effectively confiscated, which shows opportunities for improvement in the definitive deprivation of assets from criminals.

*Confiscation of cross-border transactions in false or undeclared currencies/negotiable bearer instruments (NBI)*

297. With reference to the transportation of foreign currency and bearer negotiable instruments, all persons carrying or transporting cash currency or bearer negotiable instruments, from and to the country, in an amount exceeding USD 10,000 or its equivalent in other currencies and 100% of the negotiable instruments are subject to the obligation to declare them. The SNA is the entity that directly collects the information through an online computer declaration system.

298. Compliance with the declaration obligation is subject to the control and supervision of the SNA, which has the authority to hold up to 30% of the cash, in excess of USD 10,000, not declared by a person at the time of entry into the country, or 100% of bearer negotiable instruments.

299. The SNA implements a Comprehensive Control Plan (PIF, in Spanish), the Cross-Border Control PIF, in order to address the risk of failure to declare voluntarily and/or concealment of cash or bearer negotiable instruments. The SNA has established a series of administrative regulations for the adequate compliance, control, and supervision according to the functions established in Article 4 of Law 19.913. Among these, there is the practical enforcement of Circular Letter No. 87 of 03-13-2015 and Circular Letter No. 228 of 06-10-2016 of the SNA.

300. In view of the geographical characteristics of the country, which determines the existence of customs control points at great distances from urban centres or more populated cities, there are safes where the values seized are kept pending a final resolution. For this purpose, the following resources are available: 15 safes for the Regional Directorates and Customs Administrations, with the largest amount of DPTEs; 17 bill counting and verification machines at all control points, from Arica to Punta Arenas; 10 Model D580 Scanner counterfeit bill detectors, allocated to the Customs Offices with the largest flow of DPTEs (Arica, Iquique and Metropolitana).

301. In the period between 2015–December 2018, 147 non-voluntary DPTEs were registered in the different border points of the country with respect to a total of approximately 90 thousand DPTEs registered at national level in the period, being the customs posts located in the northern

zone of Chile the ones that concentrated a greater amount of non-voluntary declarations, in line with the cash flow and risk analysis of the 2017 NRA.

302. The customs posts located in the large northern zone of Chile (dependent on the customs offices of Arica, Iquique and Antofagasta), registered 70.1% of the total non-voluntary DPTEs for the period, while those located in the central zone (dependent on the customs offices of Valparaíso, Los Andes, and Metropolitana) and the southern zone of the country (dependent on the customs offices of Talcahuano, Osorno, Coyhaique, and Punta Arenas) registered 23.8% and 6.1% of the total non-voluntary DPTEs.

**Table 3.24. Number of non-voluntary DPTEs**

Zone	Customs	2015	2016	2017	2018	2019	Total	% total part.
North	Arica	11	8	3	6	7	35	18.72%
	Iquique	1	18	6	35	20	80	42.78%
	Antofagasta	6	3	2	4	3	18	9.63%
<b>North Zone Total</b>		<b>18</b>	<b>29</b>	<b>11</b>	<b>45</b>	<b>30</b>	<b>133</b>	<b>71.12%</b>
Central	Los Andes	4	7	7	3	3	24	12.83%
	Valparaíso	1	0	0	0	0	1	0.53%
	Metropolitana	3	7	2	1	2	15	8.02%
<b>Central Zone Total</b>		<b>8</b>	<b>14</b>	<b>9</b>	<b>4</b>	<b>5</b>	<b>40</b>	<b>21.39%</b>
South	Talcahuano	0	2	0	2	1	5	2.67%
	Osorno	1	1	2	0	0	4	2.14%
	Coyhaique	1	0	0	0	1	2	1.07%
	Punta Arenas	0	0	0	0	3	3	1.60%
<b>South Zone Total</b>		<b>2</b>	<b>3</b>	<b>2</b>	<b>2</b>	<b>5</b>	<b>14</b>	<b>7.49%</b>
<b>TOTAL</b>		<b>28</b>	<b>46</b>	<b>22</b>	<b>51</b>	<b>40</b>	<b>187</b>	<b>100.00%</b>

**Table 3.25. Undeclared amounts (MND, in Spanish), withholdings and fines, period 2015–2019 (in USD)**

Zone	Customs	MND (USD)	% part. MND	Withholding (USD)	Fine (USD)
North	Arica	853,306	16.7%	254,357	174,484
	Iquique	2,580,574	50.5%	774,231	463,081
	Antofagasta	405,381	7.9%	121,613	86,862
<b>North Zone Total</b>		<b>3,839,261</b>	<b>75.2%</b>	<b>1,150,202</b>	<b>724,427</b>
Central	Los Andes	611,514	12.0%	183,473	284,465
	Valparaíso	16,800	0.3%	5,040	4,980
	Metropolitana	404,051	7.9%	121,224	97,451
<b>Central Zone Total</b>		<b>1,032,365</b>	<b>20.2%</b>	<b>309,737</b>	<b>386,896</b>
South	Talcahuano	66,230	1.3%	18,284	11,649
	Osorno	69,772	1.4%	20,932	16,394
	Coyhaique	45,420	0.9%	13,572	11,959
	Punta Arenas	53,265	1.0%	15,980	7,083
<b>South Zone Total</b>		<b>234,687</b>	<b>4.6%</b>	<b>68,768</b>	<b>47,085</b>
<b>TOTAL</b>		<b>5,106,313</b>	<b>100.0%</b>	<b>1,528,706</b>	<b>1,158,408</b>

303. The approach adopted to detect and confiscate monetary instruments includes intelligence processes carried out by the UAF, which analyses information from DPTEs, and then makes this processed information available to the Operational Intelligence area. Operational analysts have

access to the detail of the declarations, and also have benchmarks that allow them to identify whether the cross-border movement is risky or not. Analysts can identify two levels of high risk for DPTEs: Extreme in amount and Extreme in number. The information is available upon request for review by the operational analyst.

304. The review of DPTEs and their risk factors impacts the different stages of the production of a report to the MP, both at the beginning with the production of a hypothesis, and at the end in the backup files to produce a report or to close the case.

305. At the same time, the Strategic Intelligence area of the UAF is responsible for generating the DPTE's annual Synthesis Report, which also provides a complete X-ray of the cross-border declarations, their declarants, and the phenomenon's behaviour. During the development of the 2018 report, an anomalous case was detected that, in addition to having extreme cross-border transactional behaviour, presented other red flags that supported the decision to inform the operational intelligence area, who reviewed the records and decided to open a case and report it to the MP.

306. Regarding current information exchange practices, an agreement was signed in 2015 for the exchange of information and cooperation within the framework of the "2+2" working group, attended by representatives of the National Superintendence of Customs and Tax Administration of Peru, the National Customs Service of Chile, the Financial Intelligence Unit of Peru and the UAF of Chile. The main working topics of this working group are: Regulations for the transport of cash and negotiable financial instruments; exchange of confidential information related to the cross-border transport of money and negotiable financial instruments between the Peruvian FIU and the UAF; evaluation of the development of joint strategic studies on topics of common interest, among others.

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

307. Chile has a legal framework that allows it to seize and confiscate the proceeds and instrumentalities of crime, and there are confiscations in which the predicate offence has been committed both domestically and abroad. The main threats affecting the country are drug trafficking, corruption, smuggling, economic crimes, and fraud. In all these cases, assets have been identified and confiscated.

308. In particular, among the cases with the most significant confiscations or fines recorded between 2015 and 2018, the following are mentioned:

**Table 3.26. Relevant confiscations and fines related to ML convictions by predicate offences.**

Year	Case	Predicate Offence	Seizure in \$	Fine/reparation in \$	USD
2015	Case El Reloj de Arena	Drug trafficking	201.001.837		251.692
	Case Central American country	Embezzlement of funds	488.706.332		748.141
	Fraudulent Credits	Fraud	21.366.830		26.755
	Case Tráficos	Drug trafficking	45.654.389		57.168
	La Multitienda	Delivery of false information - Insider trading	713.101.203		892.939

2016	Simulated sells (5° Judge of Guarantees Santiago)	Drug trafficking	43.749.988		54.783
	Simulated sells (13° Judge of Guarantees Santiago)	Drug trafficking	48.749.988		61.044
	Case 54: Accreditation	Bribery		118.000.000	147.758
	La última carrera	Drug trafficking	106.828.566		133.769
2017	Los Cuicos	Smuggling	62.690.990		78.501
	Tax refunds	Bribery		347.947.802	Multa 435.697
		Bribery	190.183.596	2.652.659.651	Multa: 3.321.639 + comiso 238.146
2018	Lingote de oro	Smuggling	129.565.670	14.493.185.470	Multa: 18.148.250 + comiso 185.094
	El abultamiento	Drug trafficking	108.324.000		135642
	Case el engaño	Drug trafficking	79.670.000		99.762
	Case el escapista	Drug trafficking	20.780.000		26.021
	Los cuicos	Smuggling	380.453.399		476.401
	Los cuicos	Smuggling	65.913.798		82.536
	Olor a tabaco	Smuggling	165.542.400	709.112.946	Multa: 887.945 - comiso 207.290
	Laguna de droga	Drug trafficking	4.390.000		5.497
	Laguna de droga	Drug trafficking	9.580.000		11.996
	Caso La Van	Drug trafficking	204.819.798		256.473
2019	Verde Austral	Corruption	109.299.656	500.519.494	Comiso: 156.142 + reparación: 715.028

309. Chile does not have a centralised and comprehensive statistical system for seizures and confiscations, which is why it is not possible to know with certainty the overall outcomes in this area (for example, in relation to confiscations ordered in connection with convictions for predicate offences). This lack of accurate data does not allow to establish a completely accurate picture of the results achieved according to the country's risk profile.

310. Notwithstanding the above, based on the information and cases analysed, confiscations are to some extent consistent with the country's risk profile, with a greater presence of drug trafficking, corruption, and smuggling-related seizures, but less so with respect to other high-risk crimes.

#### *Conclusions on Immediate Outcome 8*

311. Chile has developed actions aimed at the confiscation of property and assets related to ML and predicate offences within the framework of its various AML/CFT policies, plans, and strategies related to the prosecution of crimes against property. Several cases have been verified in which the proceeds of crime have been confiscated in high impact cases, and cases of confiscation have existed in transnational investigations. Meanwhile, the approach adopted to detect, seize, and confiscate monetary instruments includes, for example, intelligence processes carried out by the UAF. In this respect, protocols, handbooks, and good practices have been produced. To a certain extent, the assets subject to confiscation are subject to seizures and other precautionary measures, in addition to the fact that there is evidence of a good level of control of cross-border trafficking in money and securities.

312. However, there is a great asymmetry between the values shown in terms of seizure and those corresponding to effective confiscation. At the same time, some difficulties were identified in the roles of the different authorities that participate in the confiscation process that would allow them to effectively perform it, as well as the administration of the resulting assets. These elements impact on the effectiveness of the system because they prevent the final disposition of property to criminals. The improvements required in this area are of a major nature. Finally, confiscations are to certain extent consistent with the country's risk profile, although there are opportunities for improvement in ML cases other than those related to drug trafficking, smuggling, and corruption.

313. Chile shows a **moderate level of effectiveness in Immediate Outcome 8.**

#### CHAPTER 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

##### *Key Findings and Recommended Actions*

###### *Key findings*

###### *Immediate Outcome 9*

- The country has TF detection and investigation capacity consistent with its risk profile, although there are certain limitations in the coordination among LEAs and in the adequate understanding of the level of TF risk of some authorities.
- Chile has the specialised unit ULDDECO, which is a unit attached to the Attorney General's Office that provides support and advises prosecutors also in matters of TF. This unit plays a fundamental role because of its coordinated work with the UAF, allowing the designated prosecutors to carry out the corresponding investigations.
- The UAF and ULDDECO understand to a large extent the TF risks. However, other law enforcement authorities have a more limited knowledge and present opportunities for improvement in this respect.
- Chile has not formalised TF cases, although investigations have been conducted, which have been dismissed because the respective hypotheses were not verified. However, from the analysis of important cases in which acts of terrorism have been investigated and convicted, it can be concluded that there are mechanisms for investigation, coordination and exchange of intelligence information that could also be applied to potential TF cases.
- There are prosecutors designated for cases of organised crime and they are responsible for TF cases that may arise, although they keep their powers and investigate other criminal offences involving common crimes. In this regard, it can be seen that these prosecutors can conduct their investigations adequately and have the support and advice of ULDDECO in these cases.
- The ANI has legal authority to lift the secrecy of intelligence information which would allow it to be used as a background for TF criminal cases. However, although they have submitted information to the MP, this power has not been verified, which limits its use.
- The UAF and the MP, including the ULDDECO, have access to multiple integrated databases, which is reflected as a strength for potential TF investigations.
- Deficiencies in the classification and the exceptional rule that does not provide for criminal liability in minors under 18 years of age for TF may limit the effectiveness of the system.
- The UAF has the means and the knowledge to analyse potential TF cases and inform about them to ULDDECO. To date, no FIR has been generated by the UAF for TF.

- Chile has certain measures in place that can be used as alternative mechanisms when a conviction for TF is not possible.

***Immediate Outcome 10***

- Chile has the regulatory framework to apply TFSs related to TF, which allows it to freeze assets, although there are certain technical deficiencies and challenges for the implementation without delay in those sectors with difficulties in the permanent checking of the lists and, therefore, in their immediate reporting. Notwithstanding, it should be noted that the sectors of greater materiality of the financial sector generally have the possibility of acting promptly.
- The country, through the UAF, updates in a timely manner the UNSC lists and their updates, which can be consulted on its website by all RIs.
- Financial RIs have automated systems for detecting matches with the UN lists and their subsequent reporting, but the level of awareness in general is lower in DNFBP sectors, in particular in some relevant subjects such as the notaries.
- The freezing of assets of individuals listed by the UNSC is ordered by a Minister of the Court of Appeal, at the request of the UAF, which has mechanisms in place to require implementation of the measure as a matter of urgency. Notwithstanding the above, in certain cases the implementation of the measures without delay could be impacted by the stages foreseen for the procedure.
- The UAF carried out a relevant study of the NPOs where the subsector with the greatest exposure to TF is identified, and it continuously monitors those considered to have the highest level of exposure. However, there is little coordination with the competent authority which is responsible for supervising the sector, and the latter's oversight of its regulated entities in this area is perceived to be not very robust.
- RIs have submitted STRs in cases allegedly related to individuals listed under UNSCR 1267 and the UAF has performed the correspondent analysis in periods of up to 3 hours. However, these have been cases of homonymy, and therefore no assets have been frozen.
- The country has not received notifications related to assets or funds from persons designated under UNSCR 1373. Although it has a mechanism for this purpose, Chile has not designated individuals under UNSCR 1373 either, but this is in principle consistent with its risk profile.

***Immediate Outcome 11***

- Chile has a regulatory framework that enables it to implement PF-related TFSs. However, in certain cases, the implementation of the measures without delay could be affected by the stages foreseen on the correspondent procedure and the deficiencies identified -although it should be noted that the sectors of greater materiality in the financial sector generally have the possibility of acting promptly-.
- The country, through the UAF, disseminates in a timely manner the UNSCR lists and their updates, which can be consulted on its website by all RIs.
- Financial RIs seem to have an adequate level of awareness in relation to obligations related to PF TFSs' enforcement. However, DNFBP sectors show a significant opportunity for improvement.

***Recommended Actions***

***Immediate Outcome 9***

- Overcome the technical deficiencies of the CFT regulatory framework, particularly those related to the criminalization of TF.

- Develop specific protocols to ensure effective coordination and prioritisation of investigations in TF cases among law enforcement authorities.
- Promote a greater coordination and cooperation among authorities—UAF, ANI, MP, and others—with competence on the enforcement of TF policies and strategies
- Continue with the TF training and specialisation process of competent authorities. In particular, develop specific CFT training addressed to LEAs and the Judiciary, where both the modalities that may be adopted and the relevant aspects for its effective investigation and prosecution are addressed.
- Deepen competent authorities' level of understanding of the risk of TF. Particularly, further disseminate typologies, red flags, and documents on TF-risks.

***Immediate Outcome 10***

- Modify the regulatory framework to ensure the implementation of TF TFSs without delay by all RIs. In particular: modify the regulation so that the TFSs can be implemented without delay, expand the scope of the freezing measures so that they are applied in a general and not only by the reporting institution, establish the general prohibition on the supply of funds or other assets to designated persons or entities or for their benefit, extend the term of the freezing and address the other technical deficiencies identified in relation to Recommendation 6.
- Issue additional guidance and conduct outreach and feedback activities with all RIs, especially DNFBPs, so that they accurately understand their CFT obligations and properly check UNSC lists.
- Strengthen the coordination between the UAF and the NPO regulatory body, with the aim of joining efforts to apply targeted and proportionate measures, as well as to guide supervision processes for NPOs identified as being at a higher TF-risk exposure.
- Deepen the training of NPOs, in order to create greater awareness of the TF problem and its impact.
- Raise awareness on the NPO sector about the nature of their activities implying a higher exposure to TF risk, and provide guidance on the CFT measures they should apply.
- Establish a system that notifies or alerts RIs when there is a change in the UNSC lists.

***Immediate Outcome 11***

- Modify the regulatory framework to ensure the implementation without delay of PF TFSs by all RIs. In particular: modify the regulation so that the TFSs can be implemented without delay, expand the scope of the freezing measures so that they are applied in a general and not only by the reporting institution, establish the general prohibition on the supply of funds or other assets to designated persons or entities or for their benefit, extend the term of the freezing and address the other technical deficiencies identified in relation to Recommendation 7.
- Issue of guidelines and create awareness raising and training mechanisms for RIs, specially DNFBPs, to facilitate the ongoing consultation of UNSC lists. Deepen the work with non-financial RIs so that they understand the importance of their role in the prevention of PF, in addition to what is already being done in relation to ML and TF.
- Ensure that all RIs are subject to regular monitoring and sanctions for non-compliance with their obligations in relation to the enforcement of UNSCRs on PF.
- Establish a system that notifies or alerts RIs when there is a change in the UNSC lists.

### *Immediate Outcome 9 (TF Investigation and Prosecution)*

*Prosecution/conviction of types of TF activity consistent with the country's risk-profile.*

314. Chile's NRA indicates that the country has a medium TF risk level. Even when activities related to individuals or entities designated under the UNSCRs terrorist lists have not been detected, the country has assigned such rating to risk due to the existence of vulnerabilities such as cash-intensive free-trade zones, high trade openness with a large financial market and great interconnection with other countries and financial centres, and because of its cash-intensive economic sectors.

315. This element is complemented with other risk studies conducted, particularly in relation to NPOs, as pointed out and analysed under Immediate Outcome 1. The level of understanding of the TF risk in Chile is asymmetrical since, while the UAF and the ULDDECO know it to a large extent, MP's prosecutors and auxiliary authorities have a more limited knowledge and show opportunities of improvement on this regard.

316. In particular, such opportunities are related to the need of these authorities to have a better knowledge of the different TF typologies, beyond those related to UNSCR lists (although knowledge of TF associated with the respective lists in itself makes it possible to visualise that there is a certain level of awareness of such risks).

317. Chile has a State Intelligence System, governed by Law 19.974 and coordinated by the ANI, which requires interaction with police intelligence services, particularly the Special Police Investigation Brigade of the PDI, the Carabineros' Intelligence Directorate, and other intelligence entities throughout the country.

318. In the context of Law 19.974, the ANI may lift intelligence information secrecy and report to the MP so that it can use it as background information in a criminal case. However, in practice, the ANI has rather played a role of advisory body and it has not seemed to have lifted secrecy of intelligence information for its use in a TF case. Nonetheless, such a situation does not seem to prevent the development of the TF investigation, since the primary role in the detection and investigation of this offence is played by the UAF, which has appropriate coordination channels with the ULDDECO.

319. Criminal investigations of any crime are directed by the MP, which has several specialised units in place, among them the ULDDECO, which does not have prosecutorial powers, but rather cooperates and advises prosecutors in cases of organised crime, including potential TF cases. To the date of the on-site visit, Chile had not formalised TF investigations. Nonetheless, investigations were initiated and then dismissed because the hypotheses of a link with the offence could not be proven.

320. The Chilean criminal system is made up by specialised prosecutors, appointed regionally to investigate and prosecute different types of organised crime that may arise, including TF, although their powers still allow them to investigate other offences, including common crimes.

321. The UAF is qualified to detect and analyse potential TF cases in a timely manner, and to report it immediately to the ULDDECO. Both institutions have training and knowledge in the area of TF, understand to a great extent the associated risks, and have access to several integrated

databases, which is considered a strength in relation to the performance of this type of investigations.

322. ULDDDECO, as well as any prosecutor in the MP, has direct access to information kept in several databases through an interconnection system. Among these databases, the following can be mentioned: CMF, which allows verifying if there are bank products (even when information such as the balance of the account cannot be provided); the Treasury, on tax debts; Official Gazette, where certain basic information on LPs may be collected; SII, Customs Services, among others. Such access allows to conduct, in a timely and direct manner, property surveys of individuals and entities under TF investigation.

323. Legal deficiencies in the criminalisation and the existence of an exceptional rule that does not allow to hold individuals under 18 years of age liable, as indicated in the Technical Compliance Annex, have an impact on potential TF prosecutions and convictions.

324. The Attorney General’s Office has provided guidance on the criteria applied on TF investigation procedures, particularly through Official Letter 083/2004. Moreover, through general rules applicable to all subject matters under Official Letter 133/2010.

325. The country has formalised indictments for domestic behaviours classified as terrorist acts. During the 2015–2019 period, 6 TF Investigations were initiated, but formalisation or prosecution was dismissed in relation to them all.

**Table 4.1. TF Investigations**

Code	TF Investigations Crime	Year					Grand Total
		2015	2016	2017	2018	2019	
12133	Collects/provides funds for terrorists by PJ Art. 8, 118134	1	1	2	-	2	6

326. Although several investigations were initiated, including requests for the lifting of bank secrecy, or special investigation techniques, these were discarded in the course of their development, since it was not possible to establish certain assumptions regarding the criminal type or the participation of the accused, and two of these cases were temporarily filed as of the date of the on-site visit.

327. Although no TF cases have been formalised, there are examples in the country of important cases related to the investigation of terrorism that are relevant for the analysis of the prosecution of TF. In this regard, for example, the “Metro Bombs Case” of 2014 stands out, in which several explosive devices were detonated on different days in the vicinity of the subway public transport service and outside a Carabineros police station in the country’s capital.

328. In this case, the Regional Prosecutor’s Office in charge of the investigation had its own staff composed of a deputy prosecutor, assistant attorneys and other administrative personnel, and received support from one of the Regional Victim and Witness Assistance Units. In addition, an interdisciplinary police team dedicated exclusively to the case by Carabineros (including officers from the Special Police Operations Group—GOPE—and the Carabineros Criminalistics Laboratory—LABOCAR—among others) participated in the investigations.

329. Finally, it is worth mentioning that the prosecution team held weekly meetings between all the relevant actors and the police in charge, and had exclusive 24/7 telephone contact, thus allowing for fluid communication and trust between the prosecution team and the police team, which facilitated the speed of the investigation, which resulted in a conviction. In this regard, the MP produced a report in which it systematised the good practices detected throughout the investigation process and subsequent oral trial. These were collected through interviews with the Public Prosecutor's Office team, and the results obtained provide relevant information for the approach of highly complex investigations and national public concern.

330. Based on the foregoing, it is considered that there are elements to conclude that, in the event of a TF case, this coordination between authorities and the functioning of the mechanism could also be applied to this crime.

331. In conclusion, the country has developed TF investigations in line with its risk profile, which have not been formalised because the criminal hypotheses have not been verified. It also has authorities and technical resources and, although they have different levels of understanding, they can investigate and prosecute these cases, which is to some extent consistent with the average risk level identified by the country.

#### *TF identification and investigation*

332. Criminal TF investigations are conducted by the MP, and in order to initiate them, the MP may receive reports from the UAF or the ANI, in cases where the latter lifts intelligence secrecy. Ex officio investigations may also be initiated when the MP has indications that a crime has been committed. For the development of such investigations, ULDDECO has the competence to give advice and cooperate with the prosecutor or team of prosecutors assigned to it.

333. In terms of identification of possible TF cases, the UAF has a highly developed risk matrix, which regularly checks the information on UNSCR lists in relation to TF, countries and areas of conflict or high risk, and other sources, in order to detect movements associated with this crime and treat them as a matter of urgency. This system conducts constant monitoring of risk transactions and subjects, and triggers relevant alerts that activate the respective analysis prioritisation mechanisms.

334. Up to the date of the conclusion of the on-site visit, 11 matches have been detected, but these were homonymy cases. These matches were reported by RIs through a STR, which after adequate analysis, to a large extent, and in a timely manner, have been discarded.

335. The UAF has two analysts appointed to verify and analyse exclusively TF alerts. For each TF STR received, an alert is automatically triggered and recorded in an automatic e-mail to the two TF analysts, the director, and the supervisor.

336. In the analysis of these STRs, priority is given according to various criteria, including whether the reported party is an NPO due to its potential greater risk of being misused for this crime, and if so, all the information available on the persons related to said NPO is analysed. In those cases, all NPOs' information is always cross-checked to verify if any of them is linked to any TF matter. Working groups have been established with other authorities, such as the MJDH, to share sensitive information regarding NPOs.

337. In addition, the UAF has the means to rapidly analyse potential cases of TF, and to report them to the ULDDECO. Both institutions have training and knowledge in the area of TF, and understand to a great extent the associated risks. However, to date, no FIR has been generated by the UAF for TF.

338. Meetings have been held between the UAF and the ANI, with the aim of identifying possible targets. However, because of the legal frameworks that regulate them, the type of information they can share is limited.

339. At the time of the on-site visit it was noted that, although the ANI had submitted information to the MP, it was not possible to verify that these were cases involving TF, nor whether the intelligence secrecy had been lifted, which would enable it to be used as background information in a potential judicial case.

340. In conclusion, the MP is empowered to conduct TF investigations, even informally, for which it relies on the cooperation and advice of a specialised unit such as ULDDECO. TF cases can be identified by the UAF's FIRs, which to a large extent has the means to analyse the information and generate intelligence. To date, no FIR has been generated by the UAF for TF due to the absence of any findings in this regard. It should be noted that there is a history of investigations and convictions for terrorism, which suggests that, when TF cases occur, they would be given priority and similar mechanisms and resources would be applied (although it should be ensured that there is proper coordination and cooperation between key agents, as noted below).

341. Similarly, the MP can carry out TF investigations resulting from ANI reports. However, there is no information on any case that has been initiated in this way. In this regard, it is considered that there are opportunities for improving the mechanism that allows for greater coordination between existing policies and strategies, mainly in the area of TF. In this sense, there are no protocols or procedures to facilitate coordination and cooperation between the LEAs and the ANI. In this regard, it is considered relevant to implement effective coordination mechanisms among these authorities, in order to further strengthen the identification and detection of potential TF cases.

*TF investigation integrated with—and supportive of—national strategies*

342. Chile has developed TF investigations, in view of the terrorist crimes that have occurred. Although no TF cases have been formalised, the resulting information when investigating TF has been integrated into terrorism investigations.

343. The country has issued different rulings on terrorist behaviours (of national origin), where, in most of them, the possibility that the events could be framed as TF crimes was analysed, even though this has not resulted in formalisation of the investigations or convictions for TF. From the information provided, only 2 cases correspond to cases within the period between 2015 and 2019.

**Table 4.2. Terrorist Behaviour Cases**

Region	Prosecutor's Office	RUC	Year case was initiated
Araucanía	Temuco/FIAC	1600553093-1	2016
Araucanía	FIAC	1710036300-3	2017

344. The UAF has been appointed as the national coordinator of the AML/CFT system since 2010. As part of the process of analysis of TF STRs, the UAF mainly prioritises the identification of possible terrorist networks. If the STR involves an NPO, all background information contained in different databases, records, as well as information on persons or entities that may be related are verified.

345. In addition, the ANI is in charge of the inter-institutional coordination among all intelligence agencies and services. In principle, the records kept by ANI are secret, but there is the exceptional possibility of lifting such secrecy and that they may serve as background for investigative processes. The ANI has provided information to the MP, but it is not verified that it was for TF or that the secrecy has been lifted to allow its use as background for criminal investigations.

346. It is worth mentioning that the PDI has a Police Intelligence Department (JIPOL) to which various Police Intelligence Brigades (BIP) report, which operate purely in the field of intelligence. In parallel, and also related to JIPOL, but for criminal investigative work, there are several Special Police Investigation Brigades (BIPE), specialised police bodies that carry out intelligence and investigative actions under the direction of the MP.

347. In Carabineros, the police intelligence is the responsibility of the Carabineros Police Intelligence Directorate (DIPOLCAR), which is part of the intelligence system mentioned above and whose Intelligence Committee, as mentioned, is coordinated by the ANI. For the investigation of terrorism in judicial proceedings, Carabineros de Chile uses the OS-9 or Department of Criminal Organisations, along with which prosecutors from all over the country investigate their cases, without prejudice to the support in terms of TF that may be provided by the OS-7 Department.

348. It should be noted that any police body or brigade in a criminal investigation, including those related to the crime of terrorism, depends on what the prosecutor in charge of the investigation determines. In this regard, ULDDCO maintains coordination and liaison with both ANI and JIPOL and DIPOLCAR, with a view to facilitating eventual exceptional dissemination of intelligence information to the criminal process.

#### *Effectiveness, proportionality, and dissuasiveness of sanctions*

349. Even though Chilean law allows for criminal liability of individuals and LPs for the crime of TF, it is apparent that the legal limitation that prohibits the prosecution and liability of individuals under 18 years of age for this crime could imply a limitation for the application of effective, proportionate, and dissuasive sanctions in the aforementioned case.

350. As mentioned, to the date of the visit, no TF cases have been formalised, consequently, there has been no possibility of convicting and applying sanctions in this regard. It is important to point out that the maximum penalty in the Chilean system is 40 years; however, TF in abstract terms may be punished with relatively lower penalties, ranging from 3 to 10 years, and may even be reduced under certain circumstances that attenuate or mitigate the responsibility of the perpetrator, so that the effectiveness, proportionality, and dissuasiveness of the sanction could be limited in specific cases.

#### *Alternative measures used when a TF conviction is not feasible (for instance, interruption)*

351. As it has been pointed out, as there are no cases of TF to date, there are no specific situations where the country has had to validate a practical problem due to the inconvenience of the impossibility of enforcing a conviction. However, it has authorities and mechanisms in place that could be used as alternative measures when a conviction for TF were not feasible.

352. In this regard, the country has designated prosecutors, although not exclusively, to hear cases of organised crime and to be in charge of TF cases. In addition, it has a specialised unit, ULDDECO, which advises these prosecutors and provides them with support; exceptionally, it may also participate in expert actions in TF cases that may be presented to them.

353. The MP and the UAF have access to integrated databases, which allow them to carry out property surveys in all TF cases they investigate. They also have a legal basis to take precautionary measures on the assets of persons under investigation, and initiate ML investigations on TF predicate offences.

354. Additionally, there is a domestic list designation process within the framework of Resolution 1373 of the UNSC, to avoid access to funds intended for terrorist actions, although to date there are no persons included.

355. As a result of the above, it is considered that there are different possibilities to interrupt TF activities when it is not practical to achieve a conviction for TF.

#### *Conclusions on Immediate Outcome 9*

356. Chile's TF risk is rated as medium level, since, although no events associated with individuals or entities designated under the UNSCR have been detected, there are certain vulnerabilities in the country that make it necessary to monitor the issue. The UAF and ULDDECO understand TF risks to a large extent. However, other law enforcement authorities have a more limited knowledge in this respect. The UAF in particular has specialised human resources for the detection of TF. Through systems such as "SIMONE," it has important tools to monitor transactions potentially linked to persons and conflict or high-risk zones, and there is fluid cooperation and coordination with the MP. In turn, the MP has prosecutors designated for cases of organised crime who are also responsible for taking on TF cases. TF investigations have been carried out in the country, although no cases have been formalised because the respective hypotheses were not verified.

357. Notwithstanding the above, there are deficiencies in the criminalisation of TF and in the coordination with other competent authorities that may be relevant for the purposes of investigating TF, such as the ANI and the Special Police Investigation Brigade of the PDI. Furthermore, although the risk of TF is considered to be of a medium level, it is not appreciated that there are sufficient mechanisms of articulation between law enforcement authorities or prioritisation in the matter. These elements reveal that major improvements are needed. Finally, despite the fact that the deficiencies indicated in R.5 may impact the investigation of all acts under the definition of TF, Chile has certain measures in place that may be used as alternative mechanisms when a conviction for TF may not be possible.

358. Therefore, it is concluded that Chile shows a **moderate level of effectiveness in Immediate Outcome 9.**

*Immediate Outcome 10 (TF preventive measures and financial sanctions)*

*Implementation of targeted financial sanctions without delay for TF*

359. Chile has regulations that allow the implementation of TFSs related to UNSCR 1267 and its successors and UNSCR 1373, respectively. However, as indicated in the analysis of Recommendation 6, technical deficiencies that may limit the degree of effectiveness of the scope of the measures are noted; for brevity purposes referral to such analysis is made.

360. For compliance with the resolutions, MINREL, through its Permanent Mission to the UN, receives automatic notifications from the UNSC regarding designations or changes in the corresponding lists. Likewise, such notifications are received by the DISIN of the MINREL itself, which in turn disseminates them to the competent agencies and ministries for their implementation (UAF, ANI, MP, MinInt, DGAC, DIRECTEMAR, SNA, MJDH, PDI, and Carabineros).

361. For its part, the UAF immediately publishes the lists on its web page, which all the RIs have access to. In this regard, the UAF has implemented a “search engine” on its website to automatically check (by entering a customer’s name or surname) whether any person, company or entity has been designated under any UNSCR. This search engine is kept permanently updated.

362. RIs must permanently check the listings and immediately report any match to the UAF through a STR, using the platform established for that purpose. Once the STR is received, the UAF analyses the information contained in it in less than three hours and, if there are elements that could be related to TF behaviours, the request is submitted to the Minister of the corresponding Court of Appeal, and subsequently a report is to be provided to the MP so that the analysis can be conducted from its perspective and further action considered. From 2016 to 2019, a total of 25 STRs have been received for TF, of which 11 are associated with the UNSC lists, as detailed below:

**Table 4.3. TF STRs**

<b>YEAR</b>	<b>TOTAL</b>
2016	9
2017	5
2018	8
2019	3
<b>TOTAL</b>	<b>25</b>

363. Additionally, financial RIs, mainly banks, perform a periodic review of the lists issued by the Office of Foreign Assets Control of the United States of America Department of Treasury (OFAC) allowing them to identify among their customers, individual terrorists, terrorist organisations and their support networks.

364. The procedures for executing a freezing measure, in the event that a match is found between a person or entity designated under the UNSC and the existence of assets, in accordance with the regulations, are conducted within a maximum term of 48 hours. However, during the on-site visit the authorities reported that the freezing procedure can be conducted in a shorter time, since there is coordination between the UAF, which makes the request, and the Minister of the Court of Appeal who authorises it, which facilitates its expeditious processing. Likewise, if there is a match with the

lists of the UNSC, the magistrate would not carry out a review of the conditions of designation of the individual, but would only corroborate that he/she is the person listed to order the measure.

365. The freezing measure is for a term of 30 days with the possibility of extension. In case of expiration of the term and no extension has been required, the measure becomes ineffective, and therefore the freezing of assets is subject to the investigative steps carried out by the MP and the request for extension (for more information please refer to the analysis of R.6 in the Technical Compliance Annex).

366. Chile has no cases in which the implementation of TFSs has been ordered in accordance with the UNSCR; however, during the on-site visit, it was reported that there were 11 cases (8 originating from FIs' STRs and 3 from DNFBPs)<sup>34</sup> where the mechanism was implemented whereby RIs reported to the UAF matches with the UNSC lists, which were analysed and discarded in approximately 3 hours after they were received, proving that they were false positives due to homonymy. Therefore, in spite of not having any case to date, it can be established that the mechanism implemented by the country can be effective.

367. In general, it was observed that FIs (mainly banks) have automated systems to verify the lists of sanctions resulting from UNSCRs, which favours the early detection of matches and their subsequent reporting. However, in the case of DNFBPs there is less understanding of the obligations related to the verification of lists of UNSCRs and their respective reporting.

368. In this regard, some DNFBP sectors such as notaries and real estate management companies do not have systems that will alert them to changes in the lists or automated processes to facilitate permanent verification of lists and thus detection of matches for faster reporting. In this regard, unlike the financial sectors, it was noted that some DNFBPs conduct manual searches with limited frequency. Additionally, lawyers, accountants, corporate service providers, and dealers in precious metals and stones are not included as RIs and, therefore, are not required to implement such measures.

369. The UAF has carried out measures to verify compliance by RIs with the obligations to check the lists and implement measures, in order to strengthen their application. Within this framework, a total of 488 RIs have been identified between 2014 and 2019 as having failed to comply with their obligations related to the checking of the lists under UNSCR 1267 and its successors, with exchange offices, property brokers, notaries, factoring companies, free zone users, and companies engaged in property management being the RIs with the highest number of infringements under this category.

370. In this sense, during the period between 2014–2019, the UAF sanctioned a total of 281 RIs for this type of infringement with sanctions consisting of a warning and a fine of up to USD 30,769. The UAF provides feedback to RIs in order to promote proper implementation of these measures. Likewise, elements related to TFSs are incorporated into the training and e-learning programs provided by it.

371. The authorities involved in the freezing procedures have online communication, which allows the process to be expedited in a timely manner. Meanwhile, the UAF has established an

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<sup>34</sup> The FIs were 4 banks, 3 money transfer companies and 1 exchange office, while the DNFBPs were 2 casinos and 1 real estate agent.

automatic analysis mechanism through the SIMONE tool, which crosses information with all the databases it has access to, including the lists of the UNSCRs, triggering alerts in the event of a match with those lists. It is important to point out that the SIMONE tool performs a review every 5 minutes, which allows it to effectively identify matches and, therefore, perform the respective analyses so that the UAF may request the freezing, if necessary.

372. To date, no freezing measures have been adopted for individuals designated under UNSCRs 1267, 1989 and 1988. The country has not designated any person at the national level under UNSCR 1373. No requests have been received from foreign countries for asset freezing actions on individuals listed under that resolution. Nevertheless, it is considered that competent authorities are in a position to apply existing mechanisms to implement TFSs.

*Targeted approach, outreach, and supervision of NPOs at risk*

373. Chile has a large and diverse NPO sector, which amounts to 314,099 NPOs registered with the SII. Within this framework, in 2019, the UAF developed a Risk Analysis of the Main Aspects of Vulnerability of such sector, in order to identify those NPOs most vulnerable to TF abuse. The information analysed shows that the UAF has a high level of knowledge of the sector and uses various tools and procedures to analyse not only the characteristics of NPOs that could make them vulnerable to TF abuse, but also their behaviour and monitor the dynamics of the activities they carry out in practice in order to weigh these factors in determining TF risk.

374. This report yielded information that was used by the UAF as input or monitoring marks in SIMONE for the purpose of identifying the most vulnerable NPOs. In this regard, through the search for patterns in the UNSC lists and/or domestic lists, the system helps to determine risk matches in the sector regardless of the existence of a STR. The main inputs for this analysis are based on geographical risk, population impact, exposure to the use of cash or degree of association with public services or participation in the banking system, among others.

375. It is important to bear in mind that the competent authorities involved with NPOs, whether under establishment, supervision, granting of public funds, or development of social projects, are RIs with the duty to report suspicious transactions to the UAF. Therefore, if in the exercise of their functions they detect irregularities or suspicions of TF with regard to these NPOs, they are required to report them in a STR.

376. In this context, between 2015 and 2019 the UAF received 39 STRs with regard to 23 NPOs (union associations, corporations, foundations, neighbourhood councils, other associations mainly related to churches and education centres), of which 15 came from banks, 16 from other FIs, and 8 from public institutions.

377. During the on-site visit, the assessment team was able to appreciate that the level of understanding of TF risk for the NPO sector, beyond the UAF, is limited. The supervision of NPOs is entrusted to the MJDH, however, supervision processes are not focused on TF prevention issues, which prevents the country from applying effective, proportionate, and dissuasive measures to NPOs that are vulnerable to TF abuse, following a risk-based approach.

378. The UAF has signed collaboration agreements for the exchange of information related to NPOs, between the MJDH, the SRCeI, SII and the CGR. Regarding the collaboration of the UAF with the MJDH, the technical assistance provided by the UAF to the ministry's officials in charge

of NPO audits is noteworthy. However, it is considered that the MJDH should strengthen the scope of its oversight functions, since they require a greater level of depth to adequately verify that NPOs comply with their obligations and identify and mitigate their risks of abuse for TF, and not only supervise this area in a superficial manner. Likewise, there is no evidence that the MJDH is making optimal use of the intelligence products produced by the UAF based on the risks identified.

379. In addition, the information exchange that the UAF conducts on the matter with the SII is noteworthy. In this regard, once the SIMONE yields the results of the NPOs that, according to its different parameters, represent a greater risk of being abused for TF, the UAF performs an additional analysis of these NPOs, identifying, among other things, the natural or legal persons that make them up, the geographic component in which they operate, whether they have links with foreign jurisdictions at risk, whether their members have any type of criminal record or whether they are PEPs, among other things. Subsequently, this particular information is shared with the SII so that this authority can weight it in its risk matrices and take it into account in its audits and finally, if deemed necessary, if the SII finds some risk factors along with the input from the UAF, it can send a TF STR to the UAF.

380. In this area, Chile has developed certain approaching spaces with the NPO sector in the fight against corruption. For example, the CGR has developed spaces for community outreach to strengthen the synergy between non-profit civil society organisations, citizens in general, and that authority. In this regard, the Council of Civil Society Associations was created as a mechanism for communication and interaction among various actors. However, it was not possible to evidence the existence of similar spaces which apply measures to prevent higher-risk NPOs from being used for TF and to mitigate the risk as required by the Standard.

381. As a result of the above, it is considered that Chile has implemented some targeted measures for the NPO sector, such as those derived from the Risk Analysis of the Main Aspects of Vulnerability of NPOs prepared by the UAF, which allows for the identification and differentiation of the most risky members of the sector, and for their monitoring. However, there are challenges in understanding the risks of the sector by the MJDH.

382. It should be noted that permanent monitoring of CFT is carried out by the UAF. However, with regard to the understanding of risks by the MJDH, it should be added that there are challenges in linking and bringing this authority closer to the NPOs with the greatest risk of being misused for TF to provide guidance on policies and prevention measures, as well as on the application of remedial measures and sanctions against NPOs when non-compliance with their obligations in this area is detected.

#### *Deprivation of TF property and instrumentalities*

383. Chilean law provides for the possibility of imposing administrative and judicial measures, through preventive measures that prevent terrorists or criminal groups from disposing of the assets, which can be confiscated upon conviction in criminal matters.

384. As of the date of the on-site visit, there were no cases of matches of persons with the UNSC lists, nor were there any reported requests for confiscation of assets from other jurisdictions; therefore, no confiscation of property or instruments related to TF was carried out.

385. Notwithstanding the foregoing, it is considered that there are procedures that would make it possible to deprive terrorists, terrorist organisations, and their financiers of assets and means of financing their activities, if required, either directly through the confiscation of the assets, or indirectly through the payment of fines, compensation, guarantees, and limitations on the exercise of public office, among others.

*Consistency of measures with overall TF risk profile*

386. Chile’s NRA classifies TF as a medium risk and as a threat to the national AML/CFT system. Consequently, the country has prepared studies of the sectors that have been identified as being most vulnerable to being used for this crime. In this regard, in 2018 the UAF conducted a strategic analysis study on FZUs, where high risk FZUs were identified, enabling the UAF to supervise them on-site.

387. In addition, the UAF has implemented mechanisms for permanent monitoring of transactions and sectors (SIMONE), which generates early warnings of matches in the lists of UNSCRs and channels them to the specialised area for immediate attention.

388. The country also has a training plan which develops content on both ML and TF, which includes the findings of the NRA. From March 2017 to the date of the on-site visit, a total of 2,946 RIs and 8,035 individuals have been trained both in the e-learning modality and on-site.

**Table 4.4. Training**

Year	No. of institutions per year	No. of individuals per year
2017	777	2,723
2018	800	2,829
2019	1,369	2,483
<b>Total</b>	<b>2,946</b>	<b>8,035</b>

389. Based on the analysis activity of the UAF in CFT matters, the increasing training measures for RIs, the sectoral risk documents and the automated monitoring carried out through SIMONE, it is considered that the measures described above are to some extent consistent with the medium risk level of TF identified by Chile. However, as mentioned above, there are still some areas of considerable opportunity for improvement with respect to the management and coordination with competent authorities, in deepening the understanding of risks and in the implementation of TFS measures for some RIs.

*Conclusions on Immediate Outcome 10*

390. The current legal framework in Chile provides for the enforcement of TFSs related to TF, as well as the possibility of creating domestic lists. The UAF disseminates in a timely manner the UNSCR lists and their updates, and provides relevant training to the sectors that are bound to implement CFT preventive measures. It also has the ability to analyse possible coincidences urgently, in periods of up to 3 hours. FIs (mainly banks) have automated systems for the detection of matches with the lists, issue corresponding reports, and are able to freeze respective funds based on their internal procedures and systems. In other words, the most material sectors of the financial sector in general have the possibility of acting promptly. With regard to DNFBPs, although progress has been noted in the implementation of preventive measures, especially in the casino sector, the

different sectors in general face greater challenges, due to the fact that the level of awareness of the obligations in this area is lower and some sectors such as the real estate and notary sectors do not have adequate systems or processes for the timely review of the UNSC lists.

391. However, with regard to the freezing of assets that belong to listed persons, the technical deficiencies of the mechanism in place in the country may have an impact in its implementation without delay (although it must be mentioned that sectors with a greater materiality in the financial sector have the means to act promptly). In addition, the country conducted a study on NPOs where the sub-set of organisations with a greater exposition is identified, and their monitoring thus conducted; however, there is little coordination with the MJDH as a supervisory authority of the sector. In this sense, the TFSs enforcement system requires major improvements and that the measures adopted are to some extent consistent with the country's risk profile.

392. Chile shows a **moderate level of effectiveness in Immediate Outcome 10.**

#### *Immediate Outcome 11 (PF financial sanctions)*

##### *Implementation of targeted financial sanctions without delay for TF*

393. The country has a regulatory framework for the freezing of assets of individuals listed under UNSCRs on PF matters, which is similar to the one implemented for TF. However, as indicated in the analysis of Recommendation 7, technical deficiencies that may limit the degree of effectiveness of the scope of the measures are noted; for brevity purposes referral to such analysis is made.

394. Relevant UNSCRs are received formally by MINREL and disseminated to competent authorities. The UAF publishes the PF UNSC lists on its website, which all RIs have access to. In this regard, the UAF has implemented a "search engine" to automatically check (by entering a customer's name or surname) whether any person, company or entity has been designated under any UNSCR. This search engine is kept permanently updated.

395. Moreover, RIs are required to regularly check the corresponding lists and, in case of matches, report them without delay to the UAF, which will require for the enforcement of the freezing to the minister of the Court of Appeals.

396. In this sense, the procedures provided to execute a freezing measure, in case a match were found, are performed in a maximum term of 48 hours. However, during the on-site visit the authorities reported that the freezing procedure can be conducted in a shorter time, since there is coordination between the UAF, which makes the request, and the Minister of the Court of Appeal who authorises it, which facilitates its expeditious processing. Likewise, it was indicated that if there is a match with the lists of the UNSC, the magistrate would not carry out a review of the conditions of designation of the individual, but would only corroborate that he/she is the person listed to order the measure.

397. The freezing measure has a term of 30 days which can be extended (for more information please refer to the analysis of R.7 in the Technical Compliance Annex).

398. Additionally, the UAF has an automatic monitoring system that allows to regularly verify changes and updates to the lists of designated persons and entities.

399. During the on-site visit, it could be verified that FIs conduct a regular and automatic monitoring of the UNSC lists, and in case of matches, these are immediately reported to the UAF. In this case, the same procedure described under IO.10 is conducted. However, some DNFBP sectors indicated that they conduct regular checks but not with the frequency needed, and, in case of matches, this would prevent freezing measures from being adopted without delay.

400. It should be mentioned, furthermore, that Chile has participated in certain cooperation initiatives on the matter through Minrel, in coordination with other institutions. Among them, the following can be highlighted: “*Combating the Financing of Proliferation*,” coordinated by the UAF and the U.S. State Department, which took place in October 2019 and was attended by representatives from FIUs and Ministries of Foreign Affairs from 10 countries in the region; the sub-regional conference on “*Strengthening of Border and Customs Controls and International and Regional Cooperation to Combat Terrorism and the Proliferation of Weapons of Mass Destruction and its Financing Means*,” in March 2018, where it participated as a panellist country.

401. Based on the information analysed, Chile would be in a position to implement TFSs for PF with certain limitation resulting from the delay that some sectors, such as DNFBPs, show in their filing of reports on the matter. In this regard, some DNFBP sectors such as notaries and real estate management companies do not have systems that alert them to changes in the lists or automated processes to facilitate permanent verification and thus detection of matches for faster reporting. Additionally, lawyers, accountants, corporate service providers, and dealers in precious metals and stones are not included as RIs and, therefore, are not required to implement such measures.

402. Notwithstanding the above, it is acknowledged that the country has made efforts to provide all RIs with the means to file reports in a timely manner and to be aware of the obligations on this matter.

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

403. As mentioned above, RIs check PF UNSCR lists on the UAF’s website, which is regularly updated. RIs are required to check them and immediately report the UAF in case of matches between the lists and their customers’ data. No matches have been found in the RI’s databases with the names of persons listed by the UNSC.

404. In turn, the corresponding lists are embedded in the UAF’s STR monitoring systems and are part of the information that the Unit regularly checks through the SIMONE system. As it has been reported, Chile has mechanisms in place to identify assets and persons listed in PF UNSCRs. To date, the country has not ordered the freezing of assets related to UNSCRs.

#### *Understanding of and compliance with obligations by FIs and DNFBPs*

405. Based on the information analysed and what has been observed during the on-site visit, it was determined that RIs, mainly FIs, are aware of their obligation to regularly check the international lists, including those regarding PF. However, certain sectors of DNFBPs showed a lower awareness and understanding level, as well as the fact that some of these sectors are not considered to be reporting institutions and are not, therefore, required to check UNSCRs lists.

406. As mentioned above, RIs showed to be aware of their obligation to immediately inform the UAF in case of a match, as well as to be familiarised with the updates of the UNSC lists.

407. It is important to mention that, in general, RIs indicated that regardless of the updates of the lists, it is common practice to make periodic reviews of the lists in relation to their customers and transactions through their systems. For this purpose, they have external suppliers and systematised tools that allow instant verification of transactions. As in the case of TF TFSs, most RI's ML/TF prevention handbooks include the obligation to check international lists, including PF UNSC lists.

408. In conclusion, FIs comply and understand to a larger extent than DNFBPs their obligations on the matter, regularly check corresponding lists, and report adequately. However, DNFBPs show some understanding challenges in relation to their obligations and their timely filing of STRs on the matter.

409. Also, with the aim of strengthening the training provided to its RIs in order to improve their understanding of risks and their obligation to check and monitor lists, the UAF has included the module entitled "The basics for ML/TF/PF prevention" in its training programmes, which details the obligations related to RIs' checking and monitoring of UNSC lists. Additionally, it provides specific training on immediate and confidential communication procedures on PF matters. In this sense, 272 persons from 229 RIs have been specifically trained on PF, 102 of them belong to the financial sector, 108 are DNFBPs, and 19 are NFBPs.

#### *Competent authorities ensuring and monitoring compliance*

410. There are several authorities in charge of ensuring enforcement of UNSCRs: MINREL, through its permanent mission to the UN, receives automatic notifications from the UNSC and immediately disseminates them in official messages to competent agencies and Ministries, including the UAF, MP, DGTMMN, SSNA, CMF, SEGPRES, PDI, and Carabineros. The UAF, as supervisory body of financial and non-financial RIs has established mechanisms to disseminate the updates to the UNSCR lists, which are immediately published on its website. The UAF is the primary supervisory body in charge of verifying compliance with these measures by RIs.

411. In its verification's plans, the UAF includes actions to determine whether RIs regularly check the lists. In case of failure to update the lists or non-compliance with the obligation to check them, a warning is issued together with a remedial action, regardless of the enforcement of a sanction.

412. For the purpose of ensuring compliance by RIs, in addition to verifying the obligation to check the lists under the regulations, RIs keep ML/TF prevention handbooks where the obligation to check UNSC lists is included, as mentioned in core issue (cf) 11.2. In this sense, non-compliance with the regular monitoring of the lists and with the obligation to report to the UAF implies a serious infringement that can be sanctioned with up to USD 203,000. In case the infringement by the RI were repeated, the sanction can reach up to USD 609,000.

413. As mentioned before, to date no property or assets from persons included in the UNSC lists were detected. However, in relation to cases of potential matches with the TF lists, reports were filed with the aim of ordering the freezing of assets, reason why it is considered that the mechanisms corresponding to PF can be activated too.

414. Therefore, it is considered that competent authorities largely monitor and ensure compliance by RIs, and there remain certain challenges to ensure compliance with such obligations by DNFBBs. Training efforts developed on the matter are acknowledged and the development of recent outreach coordination activities between the UAF and other competent authorities is expected to enable a more efficient implementation of TFSs.

*Conclusions on Immediate Outcome 11*

415. The country has the legal framework that allows it to apply PF TFSs. On this regard, the UAF disseminates UNSCR lists and their updates. Moreover, it is acknowledged that the country has made efforts to provide all RIs with the means to file reports in a timely manner and to be aware of the obligations on this matter.

416. However, the implementation of measures without delay could be affected by the nature of the mechanism in place, although sectors with greater materiality in the financial sector are generally able to act promptly. In addition, certain RIs—specially DNFBBs—have a low level of understanding of obligations and difficulties in enforcement.

417. Even when no cases have been detected to allow verifying the implementation of the mechanism on this matter, deficiencies identified indicate that major improvements are needed to ensure the enforcement without delay of PF TFSs.

418. Chile shows a **moderate level of effectiveness in Immediate Outcome 11.**

## CHAPTER 5. PREVENTIVE MEASURES

### *Key Findings and Recommended Actions*

**Key findings**

- Chile has a variety of RIs, among which the level of understanding of risks, knowledge of their AML/CFT obligations, and implementation of preventive measures, varies by sector.
- With regard to FIs, the banking and PFM sector is more mature in terms of implementing preventive measures. Although the securities sector has a medium level of understanding of its ML risks, it was verified that they apply reasonable preventive measures. With regard to DNFBBs, the measures implemented by the casinos sector are noteworthy. In other sectors, the application of CDD measures, record keeping, and BO identification presents significant opportunities for improvement.
- The understanding of TF risk presents, in general, great challenges, since there is no complete knowledge of the different modalities it can adopt beyond the operations associated with persons or entities listed in accordance with the UNSCRs.
- The casinos sector shows a high-level of understanding of its risks and implements adequate control measures.
- DNFBBs are not required to identify BO and are not developing measures in this regard, which implies a higher risk level.
- RIs have handbooks of AML/CFT procedures, where risk-based approach concepts are, in general, well consolidated.

- Real estate brokers and notaries are sectors with significant vulnerabilities on ML, they are not well aware of their risks and have insufficient control and mitigation measures in place.

**Recommended Actions**

- Include lawyers, accountants, corporate service providers, and dealers in precious metals and stones as RIs.
- Develop the regulatory framework on the identification of BO for DNFBPs.
- Expand the efforts to improve the level of understanding of TF risks, and focus training of RIs on this matter, especially in relation to STRs filing.
- Strengthen the knowledge of AML/CFT obligations and enforcement of preventive measures by RIs, particularly FIs and DNFBPs with the highest materiality and exposure to risk.
- Strengthen the feedback and training for RIs to improve the quality of their STRs.

The relevant Immediate Outcome considered and assessed in this chapter is IO.4. The Recommendations relevant for the assessment of effectiveness under this section are R.9–23.

**Immediate Outcome 4 (Preventive Measures)**

419. Chile has 7,449<sup>35</sup> RIs: 1,061 from the financial sector, 2,860 DNFBPs, and 3,528 NFBPs. Financial sectors concentrate the largest part of resources and investments, thus bear a higher risk of ML/TF. However, DNFBPs have a relevant participation in the economy of the country and a high degree of geographical dispersion, particularly real estate, and casinos sectors.

**Table 5.1. Financial sectors that are part of the National AML/CFT System**

Sectors	2015	2016	2017	2018	2019
Investment Fund Managers	65	63	130	150	162
Mutual Fund Managers	0	0	0	0	0
Mortgage Loans Managers	12	12	12	12	11
General Fund Managers	28	34	44	46	51
Pension Fund Managers (PFM)	6	6	6	6	7
Security Dealers	13	11	10	9	9
Banks	24	23	20	19	18
Commodities Exchange	1	1	1	1	1
Stock Exchanges	3	3	3	3	2
Clearing Houses	5	5	5	5	4
Exchange Offices	275	253	260	262	272
Insurance companies	65	64	67	67	68
Credit Unions	47	47	46	48	48
Commodities Stock Brokers	11	11	14	14	15
Stock Exchange Brokers	43	40	39	34	31

<sup>35</sup> Data as of December 2019.

Credit Card Issuers or Operators, Payment Cards with Provision of Funds or similar	32	30	33	32	32
Financial Leasing Companies	31	32	34	37	43
Factoring Companies	94	109	122	135	150
Securitisation Companies	10	10	10	9	10
Money Transfer Companies	29	29	38	58	78
Financial Institutions	4	8	10	13	18
Futures and Options Market Operators	4	1	1	1	1
Other entities authorised to receive foreign currency	8	1	4	7	9
Foreign Bank Representations	18	18	18	18	20
Securities Deposits Companies	1	1	1	1	1
<b>Total</b>	<b>829</b>	<b>812</b>	<b>928</b>	<b>987</b>	<b>1,061</b>

**Table 5.2 DNFBP sectors and other economic activities required to report to the UAF**

DNFBP sectors and other economic activities	2015	2016	2017	2018	2019
Customs Agents	284	282	291	287	284
Bidding and Auction Houses	244	276	281	281	278
Gambling Casinos	23	25	25	25	26
Floating Gambling Casinos	1	1	1	1	1
Registrars	64	61	63	66	68
Real Estate Brokers	1,080	1,133	1,165	1,188	1,209
Securities Transport Companies	7	7	7	6	6
Companies Dedicated to Real Estate Management	613	725	833	1,023	1,199
Racetracks	7	7	7	6	6
Public Entities	359	390	413	424	448
Notaries	354	354	354	353	358
Professional Sport Organisations	30	29	29	29	29
Free Trade Zone Management Companies	2	2	2	2	2
Free Zone Users	2,490	2,483	2,470	2,535	2,474
<b>Total DNFBPs and NFBPs</b>	<b>5,558</b>	<b>5,775</b>	<b>5,941</b>	<b>6,226</b>	<b>6,388</b>

*\*Total DNFBPs to December 2019 is 2,860.*

420. Based on the risks, context and materiality aspects identified in Chapter 1 of the report, the elements of this Immediate Outcome Core Issues were weighed assigning greater relative weight to the securities, banking, notaries, and property brokerage sectors, followed by exchange offices, remittances and casinos; then pensions, insurance and property registrars, and finally the remaining sectors.

421. The findings of Immediate Outcome 4 are based on interviews with a variety of private sector representatives, input from supervisors, information from the Chilean authorities regarding the materiality and risks of each sector (including NRA, RBA, and sectoral studies).

422. In summary, the meetings with the private sector representatives showed strengths in terms of synergy between the competent authorities and RIs, especially in strengthening the understanding of risks and the detection of suspicious transactions.

423. However, the persons interviewed revealed a rather dissimilar understanding of the ML and TF risks. Regarding the risk of TF, RIs have limited knowledge and it is treated in practically the same way as ML. Also, the non-financial sector is not applying measures to identify BO, and certain sectors such as lawyers, accountants, dealers in precious metals and stones, and corporate service providers have not been designated as RIs and thus are not subject to the obligation to implement ML/TF prevention measures.

#### *Understanding of ML/TF risks and AML/CFT obligations*

424. Generally speaking, financial RIs have a higher level of understanding of their ML/TF risks than DNFBPs. However, in relation to TF risks, there are opportunities for improvement.

425. Notwithstanding the above, it should be highlighted that the UAF has provided feedback and massive training programmes with the purpose of reinforcing RIs' knowledge on AML/CFT obligations, and providing guides to facilitate their enforcement. Moreover, based on the analysis of IO.3, the UAF and prudential regulators have made supervisions to strengthen the understanding and implementation of AML/CFT measures, mainly related to CDD, filing of reports, among others.

#### (a) FIs

426. Chile has published its NRA and National AML/CFT Strategy, which have been largely disseminated to RIs. The banking, insurance, and pension fund management sectors largely understand their main ML risks, which shows a proper use of the risk-based approach in their operations. However, the other RIs in the financial sector (securities, exchange offices, fund transfer companies) have a lower level of understanding of their risks. Moreover, based on the information collected, not all ML/TF procedures handbooks make reference to the elements of the NRA.

427. With regard to TF-related risks, the banking sector has a greater understanding of its exposure to crime, but the other financial sectors have a lower level of understanding. In some cases, even among banks, the differences between ML and TF risks appear to be unclear.

428. Without prejudice to this, it should be pointed out that the UAF, together with the respective prudential regulators, has developed different working groups with the private sector in order to assess the risks identified in the NRA and to direct the application of measures for prevention and detection of ML/TF towards the business dynamics mainly exposed to these risks. In this sense, risk analysis documents which complement the NRA have been prepared, called "risk-based approaches."

#### (b) DNFBPs

429. DNFBPs participate of training sessions provided by the UAF and other activities developed by regulators for the purpose of strengthening their understanding of risk and the scope of their AML/CFT obligations. However, during the *on-site visit* limitations on the level of ML-risk understanding were identified, except in the casinos sector that showed a greater understanding both in relation to the risks identified in the NRA and its obligations.

430. For TF, the understanding of risks is more limited than for ML. In this regard, it was found that some DNFBPs—such as real estate and notaries sectors—handle the risks associated with ML and TF indiscriminately.

431. Moreover, it should be mentioned that dealers in precious metals and stones, as well as lawyers, accountants, and corporate service providers have not been included as RIs, thus, it could not be proven that they conduct ML/TF prevention measures.

*Implementation of risk-mitigating measures.*

432. Financial sector RIs implement measures that are proportionate to the risks they assess. DNFBPs, meanwhile, have made significant progress since their incorporation into the AML/CFT preventive system, but still show some weaknesses arising from their lower level of understanding of risk, with the exception of the casino sector, which has a higher level of awareness and mitigation.

(a) FIs

433. The regulatory framework sets forth the obligation to use the customer's risk profile as a core element to regularly analyse the customer's behaviour, acts, transactions, and operations. In this regard, if the risks are determined to be high, RIs must apply the enhanced CDD measures set out in the regulations, which seek to mitigate the higher risk.

434. In particular, the banking sector is identified as one of the highest risk sectors that applies mitigation measures proportional to its risks, and even uses the UAF and CMF reports to update its risk matrices. Regarding the securities sector, although it has a medium level of understanding on ML/TF risks, as a result of the training actions and issuance of regulations by the competent authorities, among other means, it has shown to apply reasonable preventive measures. Regarding the insurance sector, which is one of the sectors with less materiality, it demonstrated an adequate implementation of measures to mitigate the risks to which it is exposed.

435. For their part, PFMs, despite the low risk of their main product—mandatory savings accounts—have developed risk profiles for all their customers and, in an effort to reduce the risks of voluntary savings accounts, allow them to be opened only by customers who have mandatory accounts.

436. It should also be mentioned that as a result of the “RBAs,” the agents in the financial sectors of banks and insurance companies became aware of the specific regulator's vision of risks and understood the focuses that the UAF wants to apply to the business dynamics they develop, in view of the results of the 2017 NRA.

(b) DNFBPs

437. In particular, casinos (compared to other DNFBPs) appear to better implement ML/TF prevention controls, particularly with respect to customer monitoring and follow-up of the business relationship. Although they cannot ban a person from entering or gambling, except by court order, if there is a match with a UNSC list, for example, they will immediately send a STR.

438. Furthermore, notaries—identified by the NRA as one of the most vulnerable sectors for ML—during the on-site visit showed limitations in their understanding of ML/TF risks and their knowledge of their obligations in this area is more limited, making it difficult for them to implement risk mitigation measures. Real estate brokers are in a fairly similar situation.

439. Statistics on sanctioning processes initiated as a result of an on-site supervision showed a total of 64 supervisions for notaries with 58 sanctioning processes initiated, and a total of 84 for real estate brokers and 189 sanctioning processes initiated between 2015 and 2019.

*Implementation of specific and enhanced CDD and record keeping requirements.*

440. In general terms, RIs apply appropriate due diligence and record keeping measures. However, opportunities for improvement in terms of enhanced CDD have been identified in the foreign exchange and remittance sector. It should also be noted that unlike FIs, DNFBPs are not required to identify BO, although some appear to do so.

(a) FIs

441. National regulations establish the obligation to collect all necessary information to adequately identify customers and to perform enhanced CDD, including in the case of customers that are legal persons, identification of the BO. Failure to comply with these obligations is subject to cross-sector supervision by either the UAF or the prudential supervisors.

442. Chile's national identity system is based on a single identification number, the Unique Tax Number (RUT), which is issued to both natural and legal persons. This number, in addition to other data, is required by all RIs to initiate the business relationship.

443. Financial institutions have instructions for customer due diligence (CDD) in their compliance handbooks, including the determination of the BO and ongoing monitoring. When CDD is not complete, the transaction is reported as suspicious and, in case of initiation of the relationship, the proposal is rejected.

444. The existence of publicly accessible databases, such as property registers, commercial registries, among others, and the records of the OG, and additionally other private databases (paid access), allow the execution of CDD and BO verification measures of its customers in an adequate and updated manner.

445. With regard to the application of CDD measures to customers that are legal persons, including the implementation of mechanisms for identifying the BO, the UAF has issued instructions on the correct implementation and use of the forms provided for this purpose in accordance with the provisions of UAF Circular 57.

446. In particular, banks, insurance companies, PFMs, and securities companies showed correct implementation of CDD and record keeping measures for a period of five years, as provided for in

UAF Circular 49. However, in the on-site visit, exchange offices and remittance houses did not show the same level of understanding for implementing enhanced CDD and record keeping.

(b) DNFBPs

447. Like FIs, DNFBPs have mechanisms to know their customers and keep the information up to date. In response to the circulars issued by the UAF, DNFBPs apply differentiated CDD measures based on risk (ongoing CDD, simplified CDD, and enhanced CDD). They also take steps to collect, record and permanently update information on the true identity of their customers, whether regular or occasional, and the commercial transactions carried out.

448. Casinos and real estate agents apply these measures with a good level of understanding. However, notaries seem to apply CDD measures based on their relation of trust with the customer, rather than on an analysis of the level of risk that the customer represents.

449. In addition, DNFBPs have no obligations for the identification of BO. However, some RIs, such as real estate agencies and casinos, include in their handbooks a definition of BO and procedures for identifying it on own initiative.

450. In general, both CDD records and information on reports sent to the UAF are maintained for at least five years.

*Implementation of EDD Measures*

451. Chile's regulations establish, for all RIs, the obligation to perform enhanced CDD in higher risk situations, which the financial sectors do well and DNFBPs to a lesser extent. Chile's RIs pay special attention to transactions with drug exporting countries, in line with the NRA's findings that drug trafficking is the main threat to the AML/CFT system. However, DNFBPs show some weaknesses with respect to checking UNSC lists and verification of matches with their customer databases.

(a) FIs and DNFBPs

452. RIs are required to apply enhanced CDD measures when ML/TF risks are determined to be high, whether in relation to the customer, products, services, or others. Enhanced CDD measures include, among others: (i) Collection of information on the nature of the legal or contractual relationship; (ii) collection of information on the source of the customer's funds; (iii) collection of information on the source of the customer's patrimony (iv) collection of information on the purpose of the act, operation and/or transaction conducted or intended; (v) approval from the senior management to start or continue a legal or contractual relationship; (vi) intensify ongoing customer CDD measures; (vii) collect additional information on the customer and update information and documents for the identification of the customer and BO more frequently. This greater frequency may be determined for each new act, operation and/or transaction made in excess of an established monetary threshold.

453. All supervisors have determined that RIs should implement enhanced due diligence (EDD) procedures in higher-risk situations, which include politically exposed persons (PEPs), high-risk jurisdictions, and other cases defined in the RIs' risk matrixes.

454. In the case of PEPs, financial sectors have reported that once they have been identified as such, they are treated as high-risk customers during the term the person occupies the position listed as PEP, and thereafter for life.

455. In addition to PEPs, financial institutions in the securities sector also monitor and maintain records on insiders, which are persons who, for professional, political or personal reasons, have access to privileged information and therefore could benefit from it in the market.

456. With regard to new technologies, the UAF issued Circular 58 regulating operators and issuers of prepaid cards, which establishes reinforced measures to mitigate the major risks involved in the use of these products, in accordance with the different types of cards permitted by national legislation. The issuance of UAF Circular 58 was the result of coordination with the MH, the BCCCh and the CMF. These regulations must be applied by FIs that sell these products, which may be banking institutions or other non-banking institutions with exclusive rights to operate.

457. With regard to compliance with the specific regulations for MTCs, to date no breaches have been detected with regard to their obligations to obtain the relevant information that must be incorporated into wire transfers. However, between 2014 and 2018, nine breaches of record-keeping obligations were detailed.

458. RIs are required to review the UNSC lists and incorporate these procedures into their AML/CFT handbooks. The UAF, on its web page, provides all the information necessary for compliance with these measures, in addition to the special guidelines it has issued in this area through UAF Circulars 54 and 55.

459. However, enforcement is still uneven: Financial sectors apply effective review, usually in an automated or outsourced manner, while DNFBPs—except casinos—carry out occasional reviews, which could be due to the fact that they still have manual procedures for compliance with this obligation and are in an initial phase of implementing the respective measures.

460. Title IX of UAF Circular 49 requires RIs to “pay special attention (...) to the transactions they may carry out with countries, territories or jurisdictions which (...) are classified as non-cooperative countries or tax havens,” and states that this list is available on the UAF site for consultation. It has also been noted that RIs have strengthened controls for transactions with neighbouring countries that are listed as drug exporters.

461. In addition, it was noted that non-compliance detected by UAF supervisions between 2015 and 2018 with regard to “ensuring special compliance with transactions with non-cooperative countries, territories or jurisdictions or tax havens” has decreased, which demonstrates the implementation of effective measures in terms of EDD for high-risk countries.

**Table 5.3 Non-compliance detected by UAF supervisions**

<b>Regulatory Obligation; CDD; Enhanced Measures for Countries and Jurisdictions at Risk</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>Total</b>
Ensuring special compliance with transactions with non-cooperative countries, territories or jurisdictions or tax havens.	28	1	2	1	2	34

*Reporting and tipping-off obligations*

462. According to the statistical data analysed, the number of STRs associated with ML has shown a constant increase. Although the ML/TF prevention handbooks of RIs have procedures related to the detection of TF suspicious transactions, according to the interviews during the on-site visit, some RIs do not seem to apply them adequately, because in general they link the filing of a STR associated with TF to matches with the lists of the UNSC. Without prejudice to this, it should be noted that the statistics show that between 2016 and 2019 25 STRs associated with TF have been received, of which 11 STRs<sup>36</sup> (44% of the total) are related to possible matches with UNSC lists and 14 STRs<sup>37</sup> related to suspicious transactions that are not related to the customer profile and which are linked to NPOs and/or countries with a high risk of TF.

463. All RIs are required to report to the UAF any suspicious transactions they become aware of in the course of their activities in accordance with the AML/CFT Law. With regard to the number and trend in the receipt of STRs, the statistics shown by the competent authorities generally reflect a constant annual increase in the reception of STRs, both in the financial sector and in the DNFBP sector.

**Table. 5.4 Number of STRs per year and per RI**

Sector	2015	2016	2017	2018	2019	Total
DNFBP	314	518	1,035	1,009	1,024	3,900
NFBPs	70	89	63	132	126	480
Financial Sector	2,766	2,759	2,805	3,873	3,648	15,851
<b>Total</b>	<b>3,150</b>	<b>3,366</b>	<b>3,903</b>	<b>5,014</b>	<b>4,798</b>	<b>20,231</b>

**Table No. 5.5 Number of STRs by type of RI**

Sectors	2015	2016	2017	2018	2019
Investment Fund Managers	0	1	0	0	0
Mutual Fund Managers	0	0	0	0	0
Mortgage Loans Managers	0	2	0	0	0
General Fund Managers	41	39	48	57	43
Pension Fund Managers (PFM)	766	346	262	306	448
Customs Agents	0	2	0	5	0
Security Dealers	1	10	9	6	5
Banks	754	1,002	1,190	1,889	1,869
Commodities Exchange	0	0	0	0	0
Stock Exchanges	0	0	0	0	0
Clearing Houses	2	4	22	81	206
Exchange Offices	112	168	141	209	113

<sup>36</sup> Reported by 8 FIs (4 banks, 3 money transfer companies, and 1 exchange office) and 3 DNFBPs (2 casinos, 1 registrar).

<sup>37</sup> Reported by 10 FIs (9 banks, and 1 exchange office) and 2 DNFBPs (1 casino, 1 registrar).

Bidding and Auction Houses	1	2	1	0	3
Gambling Casinos	204	383	881	873	886
Floating Gambling Casinos	0	0	0	0	0
Insurance Companies	12	30	90	161	139
Registrars	25	18	30	28	54
Credit Unions	44	49	43	53	71
Commodities Stock Brokers	0	0	0	0	0
Stock Exchange Brokers	218	301	234	336	336
Real Estate Brokers	1	2	3	0	9
Credit Card Issuers or Operators, Payment Cards with Provision of Funds or similar	286	308	302	344	198
Financial Leasing Companies	19	41	24	19	26
Securities Deposits Companies	0	1	0	0	0
Factoring Companies	10	2	3	6	5
Securitisation Companies	0	0	0	0	0
Money Transfer Companies	498	453	378	270	174
Securities Transport Companies	1	1	0	1	1
Companies Dedicated to Real Estate Management	17	6	19	19	23
Racetracks	1	0	0	3	2
Financial Institutions	0	0	3	5	7
Public Entities	28	58	59	79	102
Notaries	67	109	102	89	52
Futures and Options Market Operators	2	1	0	0	0
Professional Sport Organisations	0	0	0	0	0
Other entities authorised to receive foreign currency	1	1	56	131	8
Foreign Bank Representations	0	0	0	0	0
Free Trade Zone Management Companies	13	26	0	38	12
Free Zone users	26	0	3	6	6
<b>Total</b>	<b>3,150</b>	<b>3,366</b>	<b>3,903</b>	<b>5,014</b>	<b>4,798</b>

464. The duty to report to the UAF also applies to any cash transaction exceeding ten thousand United States dollars or its equivalent in Chilean pesos, according to the US dollar exchange rate on the day the transaction was carried out.

465. Persons required to issue STRs are prohibited from advising the person concerned or third parties of the STR or any other record, under penalty of imprisonment. The entities interviewed were aware of the existence of these provisions and prohibition.

466. Furthermore, although 67% of the 25 TF STRs received were rated as high quality and 33% as medium quality, it is necessary to deepen the knowledge of RIs in terms of modalities, red flags or TF risk factors beyond those related to the lists. Likewise, although the background information reported as suspicious is not the only indicator to measure the quality of the STRs, they are fundamental for the construction of the hypothesis in the intelligence analysis.

467. With regard to measures to prevent tipping-off, there are specific rules that establish a series of procedures that RIs must comply with to guarantee the confidentiality of the information related to a STR. It is important to bear in mind that failure to comply with these obligations not only implies an administrative fault for the reporting institution, but also implies the commission of an offence punishable by criminal law under the terms established in Article 6 of Law 19.913. In this regard, in each case in which violation of the prohibition of disclosure or tipping-off has been identified, the UAF has reported it to the authorities of the MP.

*Imminent implementation of internal controls and legal/regulatory requirements.*

468. Chile's AML/CFT system does not cause any difficulty for the implementation of internal controls by RIs, which develop risk-based procedures and controls.

469. RIs have implemented internal ML/TF prevention systems with compliance and risk management components. These systems consist mainly of procedures and controls linked to timely detection and issuance of STRs, all under the responsibility of a compliance officer.

470. Procedures and internal control mechanisms are integrated into a ML/TF prevention handbook, which is known by the RI's staff.

471. Article 3 of Law 19.913 provides that no form of secrecy or reserve may prevent compliance with the obligation to report to the UAF, and this also applies to the records that the RI has analysed for reporting the suspicious transaction.

*Conclusions on Immediate Outcome 4*

472. FIs and DNFBPs generally apply preventive AML/CFT measures proportionate to their risks and report suspicious transactions to the UAF. However, the adequacy of these measures depends on the respective sectors. In this regard, while FIs have more effective internal systems and are more experienced, DNFBPs present greater operational challenges. Also, in general, understanding of ML risks and implementation of preventive AML/CFT measures by FIs is higher than for DNFBPs.

473. In this context, certain deficiencies have been identified that require major improvement. Understanding of TF risks presents, in general, great challenges, which reflects important opportunities for improvement in the detection of TF suspicious transactions and the subsequent submission of STRs. Moreover, DNFBPs are not required to identify BO and are not developing measures in this regard, and there are sectors not included as RIs.

474. Chile shows a moderate level of effectiveness in Immediate Outcome 4.

## CHAPTER 6. SUPERVISION

### *Key Findings and Recommended Actions*

#### ***Key findings***

- The UAF and prudential regulators have extensive controls for registration and licensing of RIs that prevent criminals, their partners, associates, and BOs from being part of them, mainly

for the financial sector, notaries and casinos. However, the country has not yet incorporated some categories of DNFBPs (accountants, lawyers, dealers in precious metals and stones, and corporate service providers), which could be used by criminals and their associates.

- The AML/CFT supervisory system is composed of the UAF—which can supervise all sectors—and the prudential supervisors, who have the power to supervise the ML/TF component within the framework of their prudential supervisions to regulated entities.
- In regard to prudential supervision of FIs, the supervisor is the CMF, which governs the banking, securities, and insurance sectors. Moreover, the SP governs PFM's. The SCJ governs casinos.
- On AML/CFT supervision matters, Chile has a risk-based supervision model based on the results of the NRA, sectoral risk assessments, typologies, etc., which allows it to manage supervisory actions according to the RI's risk level. However, important challenges exist in terms of implementation, particularly in relation to the frequency and depth of supervisions of sectors considered of higher materiality, both FIs and DNFBPs.
- Regarding the challenge related to the intensity of supervisions, it was verified that the CMF carries out supervision of the financial sector, although the evaluation of the ML/TF component does not have sufficient depth.
- As regards to the challenges related to the frequency of supervision, it is noted that the UAF supervises the entire universe of DNFBPs. However, the number of available staff to carry out on-site supervision imposes certain limitations to sufficiently cover all the sectors with the highest risk.
- Although actions have been developed to achieve coordination between both institutions, with regard to FIs there are important challenges related to the operational coordination between the CMF and the UAF. There are no consolidated supervision plans and difficulties are identified in relation to the supervision of RIs' AML/CFT component.
- The supervision of PFM's, meanwhile, is conducted to a good extent and in a coordinated manner between the SP and the UAF. With regard to DNFBPs, supervision of casinos is largely carried out jointly by the UAF and the SCJ.
- The UAF has the appropriate technological tools and qualified personnel to apply a risk-based approach. However, the number of personnel results in limitations in the scope, frequency, and depth of supervision, specially to DNFBPs.
- Even when all supervisors have AML/CFT sanctioning powers—except for STRs and CTRs which are exclusively handled by the UAF—there is a generally low number of supervisions and, due to the amounts of the fines imposed, they do not seem to be effective proportionate, or dissuasive.

***Recommended Actions***

- Increase the number of UAF staff to broaden the scope of AML/CFT supervision of DNFBPs.
- Increase the frequency of AML/CFT supervisions to both FIs and DNFBPs.
- Strengthen the intensity of AML/CFT supervisions to FIs. This could be achieved through a more in-depth supervision of the ML/TF component by the CMF, or through an increase in the UAF supervisions numbers of the sector (which requires an increase in the supervision staff).
- Improve operational coordination and cooperation between the CMF and the UAF, to ensure an effective risk-based approach supervision of FIs in the banking, securities, and insurance sectors.
- Improve the understanding of TF risks by prudential supervisors.

- Evaluate sanctions' enforcement and proportionality criteria, with a focus on making them more dissuasive. Reinforce the enforcement of sanctions in relation to AML/CFT non-compliances.
- Review and/or publish regulations that adequately cover BO matters.
- Include lawyers, accountants, corporate service providers, and dealers in precious metals and stones as RIs so that they can be supervised in AML/CFT matters.

The relevant Immediate Outcome considered and assessed in this chapter is IO.3. The Recommendations relevant for the assessment of effectiveness under this section are R.26–28, R.34 and 35.

### *Immediate Outcome 3 (Supervision)*

475. The AML/CFT supervisory system is composed of the UAF—which is the regulator and supervisor in this field—and the prudential supervisors of the various reporting institutions, who have the power to supervise the ML/TF component within the framework of their prudential supervisions. Notwithstanding the above, STR and CTR issues are exclusively supervised by the UAF.

476. With regard to the financial sector, prudential supervisors are the CMF (through its CMF-Banks, CMF-Securities, CMF-Insurance areas, which work independently), and the SP. The CMF comprehensively supervises the banking, securities, and insurance sectors, in addition to credit unions, while the SP supervises PFMs. From the prudential point of view, these supervisors also monitor compliance with AML/CFT measures, but with a different risk approach than the one applied by the UAF.

477. For the other sectors and DNFBPs, the UAF is the sole AML/CFT supervisor, except for the casinos sector, also subject to prudential supervision by the SCJ.

478. In this section, and based on the risks, context and materiality aspects identified in Chapter 1 of the report, the elements of this Immediate Outcome Core Issues were weighed assigning greater relative weight to the securities, banking, notaries, and property brokerage sectors, followed by exchange offices, remittances and casinos; then pensions, insurance and property registrars, and finally the remaining sectors.

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

479. CMF Banks, Securities, and Insurance, together with the SCJ, have procedures in place for granting operation licences to the entities under their prudential regulation. Moreover, all financial and DNFBPs RIs are required to register with the UAF, which has the faculty to accept or deny registration.

### **Licensing by prudential supervisors**

#### (a) FIs

480. Most of Chile's financial institutions are authorised to operate by their prudential supervisors: SP grants licenses to PFMs and their directors and shareholders, CMF-Banks grants authorisation to banks, CMF-Securities grants authorisation to stock brokers, securities brokers and product brokers, and CMF-Insurance authorises the operation of life insurance companies.

481. In the case of banks, for example, the granting process is conducted in three stages:
1. A provisional authorisation, after founding shareholders submit a company profile, a business development plan for the first three years, and records for compliance with solvency and integrity requirements. Branches of foreign banks are only licensed if adequate supervision and licensing processes are in place in the country of their parent company, including the possibility of sharing information between the supervisors of the two countries. At the time of granting this authorisation, the founders must provide a guarantee equal to 10% of the projected corporate capital.
  2. An authorisation for existence, whose application requires the review of the company's statutes by the CMF, the payment of the minimum capital required by law and the granting of a public deed of incorporation of the company in a period of ten months after the provisional certificate is granted. The company then has up to 60 days to register in the Commercial Registry and publish, in the Official Gazette, the Certificate of the Authorisation for Existence and Extract from the Bank's Statutes issued by the CMF. Branches of foreign banks must submit, duly legalised and translated into Spanish, when necessary: By-laws, certificate of good standing, power of attorney granted to the representative agent in Chile, and authorisation from its board of directors to set up in the country.
  3. An authorisation to operate, after verification by the CMF that the entity is ready to initiate its activities, with resources, structure, procedures, and controls, among these those related to AML/CFT. A final analysis of the development plan is also made and, once all requirements have been met, the CMF will grant authorisation within 30 days, providing a period of no more than 1 year for the company to start operations. This authorisation must be recorded separately from the registration of the extract of the articles of incorporation in the Commercial Registry.
482. In order to be registered as stock brokers, securities agents, and commodity brokers in the records kept by the CMF, companies and their main authorities must submit an application for registration and accompany all the necessary background information, which is required from the company and from the partners or shareholders, directors, administrators, general manager, and legal representative, in relation to the solvency of the entity and the behaviour, financial background, and technical suitability of the persons indicated. Entities must also update the information whenever a change occurs.
483. The CMF reviews all background information received together with other public sources of information (fines from other supervisory bodies, press articles, judicial records, among others).
484. In addition, the stock exchanges, with respect to their member brokers, require a series of background information and inform the rest of the brokers about the application of a new broker and the name of its directors, managers, main executives and administrators, so that those who have knowledge of any event that concerns the applicant and any of the aforementioned persons, and which implies a breach of the requirements described in the regulations, report it, for the purpose of limiting entry to said market.
485. For its part, the SP requests all necessary information to identify and evaluate the suitability of the shareholders of a PFM, its main executives and its directors, focusing the analysis on the

existence of legal or administrative sanctions for acts contrary to the laws, sound banking, financial or commercial practices prevailing in Chile or abroad.

486. Furthermore, there are financial sectors where one can operate only with an authorisation for existence, which may or may not be granted by the prudential supervisor. In the case of credit unions, for example, they only have to be constituted before a notary and registered with the corresponding registrar. However, those whose supervision and control fall within the competence of the CMF must present the legal and financial records which prove that the condition for being supervised has been met, as well as the operating records accompanied by a report prepared by an external auditor. Within 90 days, the CMF will decide on the sufficiency and compliance of the credit union to be supervised.

(b) DNFBPs

487. As indicated, only gambling casinos have a prudential supervisor, which is the SCJ. Casinos need to be granted and awarded permits to operate, which include not only the evaluation of the record of the applicant company, its partners and controllers, but also of the (larger) project, with gaming rooms, hotel, restaurant and other related services.

488. In the case of Notaries Public, they are appointed by the President of the Republic upon the proposal of three members of the respective Court of Appeals, which verifies compliance with the requirements to qualify for the position: Being of renowned honesty and good manners, not having been prosecuted for a crime or simple misdemeanour, or not having been disqualified from holding public office, among others. Real estate brokers, meanwhile, do not need authorisation to operate.

### Registration with the UAF

(a) All RIs

489. Regardless of the existence of a licencing or authorisation requirement to operate, all RIs are required to register with the UAF for AML/CFT purposes. The registration process with the UAF, which takes a maximum of 15 days, begins with the online registration through the website. This registration creates an application which the UAF will analyse.

1. The information that the applicant entity is a RI is validated through consultations to registers in state institutions, associations, and public databases. In the event of any irregularity in its registration, or if it is an activity without a natural regulator, the UAF contacts the entity to correct these irregularities or to request the submission of supporting documents for its activity or other legal background (Decrees, Resolutions, etc.).
2. The records, once received and validated, are sent to the Head of the Control and Compliance Division (DFC) of the UAF for analysis. Once the data on the identification of all the relevant natural persons within the entity requesting registration have been obtained, that is to say, legal representatives, CO and members of the Board of Directors, where appropriate, this information is reviewed in databases available to the UAF on criminal records, marks for formalisation, STRs and CTRs.
3. The head of the DFC approves or not the request, based on the quality of the information. If the entity has not regularised its registration status or if the UAF, after analysis, certifies that the applicant entity carries out an unregulated activity, the application is denied.

**Table 6.1. RIs' registration request status Term: 2015 – 2019**

Year	No. of applications received	Approved applications	Rejected applications (*)	Pending applications (**)
2015	1,137	1,065	71	1
2016	510	429	80	1
2017	608	476	124	8
2018	575	461	70	44
2019	614	498	65	51

(\*) None of the applications were rejected for reasons related to ML/TF.

(\*\*) This status is registered when the reporting institution has not sent sufficient background information to support its activity as a reporting institution.

490. In addition, if there is a record of offences committed by an applicant for registration, the respective records are transferred to the Financial Intelligence Division of the UAF and additional information is required for the purpose of determining the seriousness of the events.

491. Furthermore, once the registration of a RI has been granted, there is ongoing monitoring. If the DIF, in its intelligence processes, becomes aware that a current RI is linked to the commission of a crime (legal representatives, CO, etc.), it submits this information to the DFC which, on the basis of this information, incorporates this RI into the on-site visit programme, which enables substantial information to be gathered for further analysis by the DIF.

492. The UAF also has procedures for the identification of institutions, activities and professions that are in the categories of RIs that are pending registration. For example, through the collaboration agreement with the SII, they have information on tax-registered entities that have not yet registered with the UAF. In this way, the UAF notifies them of their obligation to register.

493. By virtue of the above, it can be seen that to a large extent the outcome of the core issue was achieved, mainly in the financial sector, notaries, and casinos. Furthermore, although the country has not yet incorporated some categories of DNFBCPs (accountants, lawyers, dealers in precious metals and stones, and corporate service providers), which could be vulnerable to misuse by criminals and their associates, it should be borne in mind that although these sectors are not RIs, the involvement of these professionals in corporate, real estate, and representation matters is complemented by the necessary participation of public bodies and other agents that do have RI status. (Refer to section 1 on Risk and Context).

*Supervisors' understanding and identification of ML/TF risks*

494. The UAF has led the preparation of the 2017 NRA and has also developed various studies and risk matrices, which show a high level of understanding of the risk of ML/TF. Although the other supervisors did not participate in the preparation of the NRA, they have incorporated the risks associated with ML/TF in their supervisory plans and in the development of risk matrices. However, despite the training efforts made, they generally showed asymmetrical levels of understanding of risks, particularly in TF matters.

**Table 6.2. - Number of staff of prudential supervisors trained in AML/CFT matters**

Prudential supervisor	2015	2016	2017	2018	2019	Total
Financial Market Commission (CMF)	46	67	215	62	82	472

Superintendence of Gambling Casinos (SCJ)	6	1	3	35	20	65
Superintendence of Pensions (SP)	10	40	2	136	12	200

495. Moreover, the UAF has several other tools available to identify and understand its RIs' ML/TF risks:

1. Sectoral risk matrix updated yearly and developed on the basis of methodological recommendations of the IMF: Identifies and evaluates the degree of vulnerability of the economic activities supervised by the UAF to being used as a ML/TF mechanism. It categorises economic activities as high, medium, low and very low risk. The matrix considers in its construction 12 factors that allow the generation of a ML/TF risk ranking by economic activity, considering vulnerability factors: Economic capacity, cash intensity used by the economic activity, the level of exposure of the economic activity based on its geographic location, presence of predicate offences per inhabitant, creation of companies, transit of foreigners, among others, as well as compliance factors: Level of STR and CTR reporting, sanctions in ML/TF matters, training, among others.
2. Individual Risk Matrix: Provides the main attributes of each of the reporting institutions required to report to the UAF, profiling each of the reporting institutions based on risk. It is also updated every year.
3. Individual maturity indicator, which summarised RIs' level of compliance with preventive measures issued by the UAF.
4. Strategic profile for each reporting institution (PESO), embedded in the RI profiles platform, which provides information complementary to RIs' risk-based management process. It provides integrated information on the behaviour of the RI in recent years (level of reporting, audits, sanctions, training, geographic location (georeferenced), level of ML/TF risk, economic capacity (to determine the amount of the applicable sanction) and level of maturity (level of compliance of reporting institutions with respect to the preventive measures issued by the UAF).
5. Special individual risk matrix for FZUs of ZOFRI, with specific information on the sector that allows to focus on the registration and supervision processes.
6. Life Cycle of the Reporting Institution: It provides information to the risk-based management process of RIs, identifying those susceptible to be included in the registry of reporting institutions before the UAF and that are not currently in the registry.

496. Since 2016, the UAF has implemented methodological amendments aimed at improving both the analysis of the risk factors considered in the building of the sectoral matrix, as well as increasing the level of depth and granularity of the analysis and its corresponding traceability.

497. In view of the above, since 2018 a general sectoral matrix and an individualised matrix have been used, which ranks each reporting institution according to its risk of ML/TF/PF. This version includes weightings related both to the probability of vulnerability, impact or scale of its consequence and the value of mitigants exposed in the fulfilment of the preventive duties of each RI.

498. The estimation of risk of ML/TF for each sector corresponds to a weighting of twelve risk factors, which are calculated on the basis of different objective variables, an example of which is the multivariate model of geographical risk (exposure to risk according to geographical area and components of the relevant area).

499. This last model includes four dimensions (criminal, socioeconomic, transit and flow, and territorial) and nineteen direct variables (floating population, predicate offences per inhabitant, poverty rates, creation of companies, transit of foreigners, among others), which are integrated into a multivariate model that aims to provide a single ranking, which weights the presence of the variables mentioned above with the exposure that the RI would have based on the presence of branches and/or service premises typical of its work. This score provided by the model is one of the twelve risk factors included.

500. Of the financial supervisors, CMF Banks has a methodology which enables it to determine banks' ML/TF risk profile, for which indicators have been defined which result in a high, medium or low rating according to thresholds determined for each of them. CMF Securities has a methodology that includes inherent and residual risk criteria (market, liquidity, credit, operational, ML/TF risks), which allows it to categorise institutions into high, medium-high, medium-low, and low risk.

501. In order to classify the risk of institutions under its prudential regulation, CMF Insurance carries out an assessment of inherent legal and operational risks, as well as the quality of management to mitigate the risk of ML/TF. The SP, for its part, has a comprehensive risk management assessment form which considers cross-cutting mitigating factors such as risk management, audits, information security, among others, and macro-processes such as services to affiliates, investment of funds, account administration, among others; these factors are analysed qualitatively and quantitatively, with 5 being existing, 3 partially existing, and 1 non existing.

502. As a result of the on-site visit, it was identified that the SP has a higher level of understanding of ML/TF risks, and also has a specialised AML/CFT unit. Although CMF Banks, Securities and Insurance have processes for identifying the sector's AML/CFT risks, they still present significant challenges in understanding these risks.

503. In addition, the SCJ annually approves a strategic plan for DNFBPs, based on regulatory changes, process approaches, and transaction prioritisation, which defines the entities to be prioritised. Both the UAF and the SCJ have shown a high level of understanding and identification of ML/TF risks of the sectors subject to their supervision.

#### *Risk-based supervision of compliance with AML/CFT requirements*

504. All supervisors have risk-based approach supervision handbooks. The main supervisory competence in AML/CFT matters is with the UAF, in addition to which financial supervisors include ML/TF risk as one factor among other prudential factors.

505. At the ENA level, supervisors have developed a working group to discuss AML/CFT issues. In this regard, work line number 2 of the respective Action Plan, called "ML/TF Risk Based Supervision," has carried out 7 meetings of the working group in which 11 institutions participated with the purpose of proposing, evaluating, and implementing actions related to supervision and RBA.

506. In addition, 17 bilateral coordination meetings have been held by the supervisory bodies in the area of AML/CFT supervision, in order to update the "AML/CFT supervision plans." The UAF, together with the CMF, developed a Sectoral Risk Approach for the insurance sector and for the banking sector.

507. Although actions have been taken to ensure coordination between both institutions, there are limitations in the operational coordination of supervision between the CMF and the UAF, particularly with regard to the development of supervisory plans and their scope.<sup>38</sup>

508. The UAF is the AML/CFT supervisor for all financial and DNFBP RIs. Although it shares some supervisory powers with prudential supervisors, most inspections are carried out by the UAF, using a methodology that includes on-site and off-site supervision. The UAF has a Supervision and Compliance Directorate consisting of 11 staff members whose profiles are in administration, law, and information technology.

**Table 6.3. Number of on-site and off-site UAF supervisions (2015–2019)**

UAF Supervisions					
Modality	2015	2016	2017	2018	2019
On-site	102	125	130	135	142
Off-Site*	13508	14182	14719	15529	15,784

*\*Off-site monitoring actions to verify compliance with reporting of CTRs.*

509. During the on-site visit it was shown that the methodology of on-site supervision includes the possibility of joint supervisions between the UAF and the prudential supervisors. However, there were some difficulties in coordination between supervisors and in relation to the application of different levels of risk-based approaches, mainly because the risk of ML is considered a very specific component within the broad field of risks analysed at the prudential level.

510. Regarding the RBA implementation in supervision matters, at the beginning of each year, the risk tools mentioned above are used to define which sectors (sectoral risk matrix) and, within them, which RIs will be supervised and whether on-site or off-site. The highest risk sectors and RIs are the focus of on-site supervision, without prejudice to other actions that may be necessary.

511. The supervision process lasts up to a period of 3 months and culminates with the final report that establishes the findings and non-compliances of the RI's ML/TF prevention system. The on-site supervision is carried out at the RI's premises, without prior notice and lasts approximately 1 day. Supervisors require all the necessary information to review compliance and implementation of each item of the verification programme, defined in the Annual Audit Plan based on the risk tools and other factors that have not yet been taken into account by the matrices, including conjunctural reasons.

512. In addition to on-site supervision, the UAF is also developing a process for remote monitoring (off-site) of all RIs with regard to compliance with the obligations to report CTRs and the obligation to register. In the case of CTRs, monitoring has a variable frequency according to the sector: Monthly for banks, quarterly for non-banks, and half-yearly for non-financial institutions.

<sup>38</sup> Regarding the cooperation between UAF and CMF, in June 2021 both institutions signed an agreement aimed at promoting their reciprocal cooperation, particularly in the field of training, cooperation to strengthening the preventive measures of the sectors under their supervision and on regulatory issues. Without prejudice to the previous, this agreement was not considered nor weighted when assessing this section, given that it was signed after the onsite visit.

513. The following table reflects the supervisions carried out in each sector between 2015 and 2019:

**Table 6.4. - RIs supervised by economic sector Term: 2015 – 2019**

**(a) Financial Sector**

Sectors	2015	2016	2017	2018	2019	Total
Investment Fund Managers	0	0	10	20	19	49
Mutual Fund Managers	0	0	0	0	0	0
Mortgage Loans Managers	0	0	0	0	0	0
General Fund Managers	0	5	13	7	6	31
Pension Fund Managers (PFM)	0	0	0	0	0	0
Security Dealers	0	5	2	0	2	9
Banks	1	0	0	0	0	1
Commodities Exchange	0	0	0	0	0	0
Stock Exchanges	1	0	0	0	0	1
Clearing Houses	0	0	0	0	0	0
Exchange Offices	17	22	13	16	11	79
Insurance Companies	0	7	0	3	3	13
Credit Unions	4	4	5	1	4	18
Commodities Stock Brokers	0	0	0	0	0	0
Stock Exchange Brokers	6	1	1	0	3	11
Credit Card Issuers or Operators, Payment Cards with Provision of Funds or similar	2	1	1	0	2	6
Financial Leasing Companies	0	4	8	5	0	17
Factoring Companies	13	6	10	14	14	57
Securitisation Companies	0	0	0	0	0	0
Money Transfer Companies	3	7	1	7	9	27
Financial Institutions	0	0	0	0	0	0
Futures and Options Market Operators	0	0	0	0	0	0
Other entities authorised to receive foreign currency	0	1	2	0	0	3
Foreign Bank Representations	0	0	0	0	0	0
<b>Total</b>	<b>47</b>	<b>63</b>	<b>66</b>	<b>73</b>	<b>73</b>	<b>322</b>

**(b) Non-financial sector**

Sectors	2015	2016	2017	2018	2019	Total
Customs Agents	10	0	0	0	0	10
Bidding and Auction Houses	0	4	0	0	0	4

Gambling Casinos	3	7	6	5	6	27
Registrars	0	0	0	0	0	0
Real Estate Brokers	19	14	14	22	15	84
Securities Deposits Companies	0	0	0	0	0	0
Securities Transport Companies	0	0	0	0	0	0
Companies Dedicated to Real Estate Management	0	7	18	25	16	66
Notaries	10	23	16	0	15	64
Free Zone Users	13	7	10	10	17	57
<b>Total</b>	<b>55</b>	<b>62</b>	<b>64</b>	<b>62</b>	<b>69</b>	<b>312</b>

**Table 6.5. - No. of joint supervisions between the UAF and the SCJ**

2016 (7)	2017 (6)	2018 (5)	2019 (6)
Copiapó	Talcahuano	Los Angeles	Pucón**
Antofagasta	Rinconada	Arica	Viña del Mar**
Coquimbo**	Calama	Arica**	Antofagasta
Talca	Valdivia	San Antonio	La Serena
Temuco	Osorno	Puerto Varas**	Pta. Arenas
Pta. Arenas	Monticello***		Temuco

\*\*Municipal Casinos

\*\*\*Process initiated for STR quality

**Table 6.6. - No. of institutions supervised by the CMF (supervisions for AML/CFT component)**

Institution		2015	2016	2017	2018	2019	Total
<b>CMF Banks</b>	Banks	6	10	10	7	6	39
	Cooperatives	1	0	3	4	3	11
	Issuance of non-banking cards	0	1	1	1	2	5
<b>CMF Securities</b>	General Fund Managers	9	8	8	7	5	37
	Securities Intermediaries and CBP	16	11	14	15	11	67
	Stock and Commodities Exchange, Securities Deposits Companies	0	0	0	0	4	4
<b>CMF Insurance</b>	General Insurance Company	29	23	10	14	18	94
	Life Insurance Company	30	30	8	7	10	85
<b>Grand Total</b>		<b>91</b>	<b>83</b>	<b>54</b>	<b>55</b>	<b>59</b>	<b>342</b>

**Table 6.7. - Number of entities (PFM and Intermediaries) supervised per year where the internal control systems, risk management, and ML/TF Prevention System were assessed**

Year	No. of supervised institutions	No. of institutions notified for AML/CFT matters (***)
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	General Fund Managers	Securities Intermediaries and CBP (*)	Stocks and DCV (**)	General Fund Managers	Securities Intermediaries and CBP	Stocks and DCV
2015	9	16	0	6	12	0
2016	8	11	0	6	8	0
2017	8	14	0	7	9	0
2018	7	15	0	3	6	0
2019	5	11	4	0	5	2
Total	37	67	4	22	40	2

(\*) Includes planned and unplanned audits.

(\*\*) Only audits in AML/CFT matters are reported.

(\*\*\*) There are 4 SI audits and 4 PFM audits corresponding to the year 2019, which are in process of being issued, and which have observations associated to AML/CFT.

**Table 6.8. - SP - ML/TF Supervision Statistics (2015–2019)**

Type of Supervision	2015	2016	2017	2018	2019	Total
Follow-up	6	6	6	8	6	32
Preventive	0	0	4	0	0	4
Compliance	6	0	0	0	2	8
Global SBR	0	6	4	6	4	20
<b>Total</b>	<b>12</b>	<b>12</b>	<b>14</b>	<b>14</b>	<b>12</b>	<b>64</b>

514. Based on the information collected, it can be concluded that even if the UAF and prudential supervisors have a solid methodology and a RBA supervisory planning, the scope of supervision processes is still in some extent limited and there is a need of better coordination between the UAF and financial supervisors to ensure that sectors with a greatest exposure to ML/TF risks are not unsupervised for long periods of time.

515. On this regard, even if prudential supervisions have an AML/CFT measure component, the prudential supervisor focuses on risk management and measures specific to the sector's operations, as opposed to UAF supervisions, which are focused on compliance with each and every AML/CFT measure.

516. The country has a risk-based approach and develops supervision to FIs and DNFBPs. However, the challenges are mostly in terms of the intensity of FIs supervision and the frequency of DNFBPs supervision.

517. Regarding the supervision of FIs, although the CMF supervises the ML/TF component in the framework of its FIs supervision, it is noted that this evaluation does not have sufficient depth, and that should be more strengthen the revision of compliance on preventive measures.

518. Regarding the challenges defined in the frequency of supervision, these mainly refer to the total effective coverage of DNFBP sectors. In this sense, although the UAF's RBA allows to manage supervising measures to the higher risk DNFBPs, there are limitations regarding the staff number available to carry out on-site supervision more frequently. In this framework, it is considered that an increase in supervisory staff could have a positive impact on increasing the coverage of those sectors.

519. In this sense, sectors with the highest, medium and lowest relative weight in terms of materiality were identified, taking as a reference all the information provided by the country related to the risk and context, including the NRA, sectoral risk assessments, the sectoral risk matrix, typologies report, among others. The following aspects should be mentioned:

(a) Sectors considered to bear a higher relative weight in terms of materiality:

- The banking sector, together with the securities sector, represent a greater relative importance in the Chilean financial system, and have been considered to bear a high/medium risk level by the UAF. However, in the 5 years analysed (2015–2019), only one banking entity was supervised on AML/CFT by the UAF. CMF Banks, meanwhile, conducted 39 prudential supervision procedures with AML/CFT component in them.
- In relation to the securities sector, the UAF conducted 49 supervisions to investment fund managers (162 are registered); 31 supervisions to PFMs (51 are registered); 11 to stock brokers (31 are registered), 9 to stock exchange agents (9 are registered), and 1 to the securities exchange (2 are registered). CMF Securities conducted 108 prudential supervisions<sup>39</sup> with AML/CFT component in them.
- With regard to DNFbps, 358 notaries are registered, with 64 supervisions conducted on this sector during the period under analysis.<sup>40</sup> The real estate sector<sup>41</sup>, made up by 2,408 RIs between brokers and companies dedicated to real estate management, 150 on-site supervision visits were conducted in the last 5 years—one of the most supervised sectors.

(b) Sectors considered to bear a medium and lower relative weight in terms of materiality: Exchange offices, fund transfer companies, pensions, insurance, and casinos were largely supervised. Particularly, the casinos sector is one of the most supervised sectors; a good coordination between the UAF and the SCJ is to be highlighted.

*Remedial actions and effective, proportionate, and dissuasive sanctions*

520. All supervisors have the power to apply sanctions, even in AML/CFT matters. However, based on the primary competence of the UAF on this matter, most supervisors choose to let the UAF decide upon the sanction when irregularities are found in the AML/CFT framework. For such purpose, supervisors report to the UAF potential findings so that sanctioning measures can be applied.

521. The UAF's DFC, once the analysis of the information gathered during the supervision process is concluded, makes de decision—based on the findings—to make recommendations of improvement (in case of minor deficiencies that require simple improvements for compliance), or to refer the information through a compliance verification report to the Legal Department for the potential initiation of an administrative sanctioning procedure.

522. In case improvement recommendations were efficiently implemented and proven in a timely manner, the compliance verification report may be filed in the DFC, since minor deficiencies

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<sup>39</sup> Prudential supervisions with AML/CFT component were conducted to PFMs, securities intermediaries, and CBP, securities and commodities exchange, and securities deposits companies.

<sup>40</sup> In 2015 (10 supervisions), 2016 (23 supervisions), 2017 (16 supervisions), and in 2019 (15 supervisions).

<sup>41</sup> This is a particular sector, since there is a percentage of real estate management companies that are linked to each other, forming different economic groups of companies controlled by a parent company. However, all of them must register with the UAF. As of December 2019, 81 economic groups concentrate 1,065 real estate management companies (89%) out of a total of 1,199 that comprise the sector.

were overcome before the end of the non-compliance verification period (within 3 months after the on-site visit date – closure of supervision minutes). The main minor non-compliances identified between 2015 and 2019 are related to the CDD obligation, followed by the ML/TF prevention handbook.

**Table 6.9. - No. of minor non-compliances detected in on-site supervisions - Circular obligations (2015–2019)**

Verification Standard	2015	2016	2017	2018	2019	Total
CDD	260	296	251	347	341	1,495
CTR detection	1	6	7	0	2	16
STR detection	95	84	110	93	96	478
In-house bodies responsible of ML/TF prevention	102	115	114	131	99	561
Hiring and training of personnel	59	80	88	98	67	392
ML/TF prevention handbook	112	145	117	170	118	662
Records	56	66	81	51	57	311
<b>Total</b>	<b>685</b>	<b>792</b>	<b>768</b>	<b>890</b>	<b>780</b>	<b>3,915</b>

523. In the paragraphs below, initiated sanctioning procedures are shown, which were mainly the result of non-compliances with the regulations related to the cash transaction reporting (58.1% of all sanctioning procedures initiated in the period), an infringement mainly committed by RIs in the NFBP sector, followed by non-compliance with AML/CFT regulations detected in on-site supervisions (39.7%).

**Table 6.10. - Initiated sanctioning procedures, per sector and source. 2015–2019**

Sector	Source					Total in the period
	On-site	CTR	CO not appointed	Late STR	Others	
FIs	244	68	14	5	0	331
DNFBP	205	194	0	0	1	400
NFBPs	70	498	8	0	0	576
<b>Total</b>	<b>519</b>	<b>760</b>	<b>22</b>	<b>5</b>	<b>1</b>	<b>1,307</b>

524. In general, sanctioning procedures are originated in the following situations:
- On-site Supervisions:** Some of the infringements (1 or more) detected in the framework of an on-site supervision procedures and that may be related to non-compliance with some of the measures mentioned in table 6.10;
  - CTR:** Violation to Article 5 of Law 19.913 detected in some of the remote off-site supervision procedures mentioned in table 6.4;
  - CO not appointed:** Violation to the obligation set forth in Art. 3 (4) of the Law 19.913, detected during any procedure conducted by the UAF;
  - Late STR:** When a RI is found to have noticed a suspicious transaction and this was reported late;
  - Others:** Any type of non-compliance detected in a manner different than the ones mentioned above, for example, a self-declaration.

525. Now, completed sanctioning procedures were originated mainly in violations detected in on-site supervisions conducted by the UAF (52.3% of all completed sanctioning procedures), and violations to regulations related to CTRs (46.5%).

**Table 6.11. - Completed sanctioning procedures, per sector and source of the sanction. 2015-2019**

Sector	Source			Total in the period
	On-site	CTR	CO not appointed	
FIs	362	380	10	752
DNFBP	22	6	0	28
NFBPs	55	4	0	59
<b>Total</b>	<b>439</b>	<b>390</b>	<b>10</b>	<b>839</b>

**Table 6.12. - Cases referred to the Legal Department and filed in the Supervision and Compliance Department**

Year	No. of on-site supervisions per year	Procedures referred to the Legal Department	Procedures concluded with internal reports
2015	102	95	7
2016	125	118	7
2017	130	123	7
2018	135	127	8
2019	142	114 <sup>42</sup>	28
<b>Total</b>	<b>634</b>	<b>577</b>	<b>57</b>

526. In addition to jurisdiction matters, prudential financial supervisors and the SCJ also avoid situations where double sanctions may be applied for the same infringement detected by both institutions, therefore, when sanctioning processes are initiated, they report them to the UAF. To date, prudential supervisors have not applied sanctions for non-compliance with AML/CFT measures.

527. The UAF uses the general sectoral matrix and the individualised matrix to direct sanction actions towards the sectors and RIs with the highest risk (CTR non-compliance processes), as well as to analyse the proportionality of the sanction in consideration of the economic capacity of the RI.

528. Pursuant to Law 19.913, UAF's sanctions<sup>43</sup> amount to 5,000 Development Units (UF), value which may be tripled in case of repeated infractions (two or more infractions of the same nature in a twelve-month period). One UF equals to approximately USD 35 in local currency (close to CLP 28,000 to February 2020). Therefore, the maximum value of a tripled serious sanction

<sup>42</sup> There are 17 reports under development by supervisors.

<sup>43</sup> Minor Sanctions: 800 UF (USD 32,250), less serious sanctions: 3,000 UF (USD 120,937), serious sanctions: 5,000 UF (201,562). Exchange rate as of November 30, 2019: CLP 40,3125.

would be between USD 175,000 and 525,000, a considerable amount for most DNFBPs, but quite low for the financial sector in general.

529. The following table reflects the sanctioning procedures that effectively resulted in sanctions:

**Table 6.13. - Sanctioning procedures that resulted in sanctions between 2015–2019**

Description	2015	2016	2017	2018	2019	Total
Total number of cases with sanction applied, per year.	129	209	96	199	206	839
No. of procedures resulting from on-site supervisions with sanction applied, per year.	80	71	61	106	113	431
No. of procedures where the RI overcame all or some of the irregularities detected before the final resolution.	28	46	38	68	87	267
No. of cases where non-compliance with the obligation to check UN lists was sanctioned.	38	50	32	81	67	268
Amount of sanctions applied (in UF)	2,632	4,641	2,705	6,250	8,958	25,186
Amount of sanctions applied (equivalent in USD) <sup>44</sup>	106,442	187,689	109,394	252,760	362,275	1,018,560

530. The fines applied by the UAF are broken down as follows, according to the type of sector (amounts in USD):

**Tabla 6.14. – Multas aplicadas por la UAF periodo 2015-2019**

Tipo sector	2015	2016	2017	2018	2019	Total
Financial sector	86.868	68.023	46.912	93.218	98.879	393.900
DNFBP	6.309	49.258	36.397	106.765	194.523	393.253
NFBP	13.265	70.409	26.085	52.776	68.872	231.406
<b>Total (USD)</b>	<b>106.442</b>	<b>187.689</b>	<b>109.394</b>	<b>252.759</b>	<b>362.275</b>	<b>1.018.560</b>
<b>Total (UF)</b>	<b>2.632</b>	<b>4.641</b>	<b>2.705</b>	<b>6.250</b>	<b>8.958</b>	<b>25.186</b>

**a) Financial sector**

Financial sector	Admonition written	Admonition written and fine	Fine (USD)
Exchange Offices	11	84	82.703
Factoring Companies	0	44	81.894
Stockbrokers	0	16	54.192
Banks	0	5	42.868
Investment Fund Managers	1	19	32.758
General Fund Managers	1	14	28.713
Cooperatives (financial institutions)	2	14	21.636
Financial Leasing Companies	1	10	14.963

<sup>44</sup> An estimated exchange rate of CLP 700 per U.S. dollar was used and the UF value of CLP 28,309.03.

Money Transfer Companies	1	10	10.313
Insurance Companies	2	3	9.706
Credit Cards Issuers	0	5	8.088
Security Dealers	0	4	4.449
Other entities authorised to receive foreign currency	0	1	1.618
Credit Cards Operators	1	0	0
Futures and Options Market Operators	1	0	0
<b>Total</b>	<b>21</b>	<b>229</b>	<b>393.900</b>

**b) DNFBP Sector (not including the NFBP)**

DNFBP	Amonestación escrita	Amonestación escrita y multa	Multa (USD)
Companies dedicated to real estate management	28	69	116.391
Gaming Casinos	0	9	97.868
Notaries	2	43	89.376
Real Estate Brokers	15	84	88.001
Registrars	0	4	1.618
<b>Total</b>	<b>45</b>	<b>209</b>	<b>393.253</b>

531. Between 2015 and 2019, fines in favour of the tax authority have been applied for a little more than USD 1,000,000, corresponding to 839 sanctions. Specifically, sectors considered to bear a higher relative weight have been sanctioned as follows:

(i) The banking sector was sanctioned on 5 occasions for a total amount of USD 42,868, which implies an average of USD 8,574 per sanction.

(ii) The securities sector, composed of stockbrokers, was sanctioned on 16 occasions for a total amount of USD 54,192, i.e., an average of USD 3,387 per sanction, and stockbrokers were sanctioned on 4 occasions for an average of USD 1,112 per sanction.

(iii) As for the DNFBPs, Notaries were sanctioned on 43 occasions with an average of USD 2,078 per sanction and the real estate sector comprising real estate management companies and property brokers have been sanctioned on 69 and 84 occasions, with an average of USD 1,687 and USD 1,048, respectively.

532. The sectors considered to have medium and lower relative weight in terms of materiality are: Exchange offices, being the sector with the highest number of fines in the financial system with an average of USD 985 per sanction, fund transfer companies with an average of USD 1,031 per sanction, and the insurance sector with an average of USD 3,235 per sanction. Particularly, the casino sector is one of the most sanctioned DNFBP sectors with an average of USD 10,874 per sanction.

533. Although sanctions are imposed according to the type of infraction committed, there are limitations with respect to their proportionality and, consequently, there are important challenges with respect to their dissuasiveness. Notwithstanding the above, it should be highlighted that

sanctions imposed by the UAF are of a public nature and are made available to the general audience in its website,<sup>45</sup> which implies a dissuasive factor for RIs taking into account the reputational risk involved for the entities that are sanctioned.

534. On the other hand, non-compliance and sanctions for failure to check UNSCR lists are presented below:

**Table 6.15. - Failure to check UNSCR lists**

Regulatory obligation; CDD; review and check of UN lists	2015 (102)	2016 (125)	2017 (130)	2018 (135)	Total
Regularly review and check if there are matches between their customers and UN lists, which identify natural persons and entities member of the Taliban and the Al-Qaida organisation, or who are associated to them.	76	85	86	92	339

**Table 6.16. - Sanctions for failure to review UNSCR lists**

Description	2015	2016	2017	2018	2019	Total
No. of cases where non-compliance with the obligation to check UN lists was sanctioned.	38	50	32	81	67	268

*Impact of supervisory actions on compliance.*

535. Supervisors have reported that supervisions' findings have resulted in compliance and improvement plans in RIs, strengthening their AML/CFT compliance processes.

536. The UAF, which is responsible for most of the AML/CFT supervision tasks, has developed a calculation to measure its RIs' improvement index in relation to CTR non-compliance matters, which is the main finding in off-site supervisions. Based on the statistics submitted, a reduction of approximately 80% of non-compliance indexes was achieved after e-mail or telephone communications.

537. Moreover, an improvement was verified in compliance by certain sectors as a result of the supervisory action made by the UAF. In fact, through its risk matrix, the UAF identified the gambling casinos activity as a ML/TF high-risk sector.

538. In this context, since 2016, the UAF increased its on-site supervision activities for the sector. Between 2016 and 2019, the UAF conducted 24 on-site supervisions to the gambling casino sector, and sanctioning procedures were completed with the enforcement of fines for UF 2,410 (USD 86,000, approx.). Subsequently, it was noted that the casinos sector increased the submission of STRs as of 2016, since it went from reporting 336 STRs between 2012 and 2015 (with an average of 84 STRs in these four years), to reporting 3,023 STRs between 2016 and 2019, which is equivalent to an approximate increase of 800%.

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

<sup>45</sup> ([https://www.uaf.cl/prensa/sanciones\\_new.aspx](https://www.uaf.cl/prensa/sanciones_new.aspx))

539. The UAF has developed a National Training Plan based on ML/TF risks, whereby it aims at strengthening the National AML/CFT System. In addition to dissemination activities, guidance, and feedback, it has provided e-learning courses to all RIs and to other supervisors.

**Table 6.17. - No. of communications addressed to RIs through e-mails**

Type of communication	2015	2016	2017	2018	2019	Grand Total
Training	12,044	9,097	5,000	7,787	11,540	45,468
Dissemination	35,047	19,952	9,160	9,763	9,250	83,172
Issuance of regulation	7,913	4,776	9,408	4,822	13,877	40,796
Operational instructions	713	7,998	-	1,677	562	10,950
<b>Grand Total</b>	<b>55,717</b>	<b>41,823</b>	<b>23,568</b>	<b>24,049</b>	<b>35,229</b>	<b>180,386</b>

540. Additionally, the UAF has disseminated other contents in addition to the NRA, a ML typologies and red flags report, elaborated with the MP, and a Guide to ML/TF Warning Signs, which has been used as a relevant input for RIs. Since 2017, a feedback plan to institutions that have been subject to on-site supervision by the UAF is executed so that RIs become aware of the main deficiencies detected and may adopt measures to strengthen their systems.

**Table 6.18. - Feedback activities for UAF’s supervised institutions**

Sector	No. of supervised institutions	No. of attendants
Financial Sector	48	61
DNFBP	13	16
NFBPs	1	2
<b>Grand Total</b>	<b>62</b>	<b>79</b>

541. Other supervisors also provide feedback to supervised RIs in the framework of their supervision procedures, including findings, conclusions, and recommendations for potential corrective/remedial action plans.

542. With regard to the understanding of their obligations, the UAF develops an Annual Training Plan based on ML/TF risk through an e-learning system, complemented with on-site training sessions, with a curriculum that covers the entire current regulations—including case studies—and that ends with an assessment that defines its passing or failing. The training plan has had the following coverage:

**Table 6.19. - Training Plan based on ML/TF Risk – UAF**

Year	No. of RIs trained by year	No. of persons trained by year
<b>2015</b>	852	2.639
<b>2016</b>	877	1.785

<b>2017</b>	946	3.264
<b>2018</b>	800	2.829
<b>2019</b>	1,369	2,483
<b>Grand Total</b>	4,844	13,000

**Table 6.20. - FI reporting institutions trained by year**

<b>RI under Law 19.913</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>Grand Total</b>
Investment Fund Managers	8	20	32	30	48	138
Mortgage Loans Managers	5	4	5	2	4	20
General Fund Managers	7	11	32	17	24	91
Pension Fund Managers (PFM)	5	4	6	2	7	24
Security Dealers	4	6	5	2	2	19
Banks	22	17	19	18	11	87
Stock Exchanges	1	2	1	1	0	5
Clearing Houses	3	1	3	0	2	9
Exchange Offices	53	33	55	49	41	231
Insurance Companies	32	24	42	21	33	152
Cooperatives (financial institutions)	14	13	13	12	16	68
Stock Brokers	29	11	26	15	15	96
Commodities Stock Brokers	1	3	6	3	4	17
Securities Deposit	1	1	1	0	1	4
Credit Cards Issuers	6	6	12	11	19	54
Issuers of payment cards with provision of funds, or any other system similar to the referred means of payment	0	0	0	0	2	2
Financial Leasing Companies	4	7	17	15	13	56
Factoring Companies	20	31	32	32	43	158
Securitisation Companies	0	1	3	2	1	7
Money Transfer Companies	11	8	16	33	37	105
Financial Institution	1	1	3	5	7	17
Credit Cards Operators	4	6	5	5	2	22
Futures and Options Market Operators	1	0	0	1	0	2
Other entities authorised to receive foreign currency	1	1	2	4	4	12
Foreign Bank Representations	3	1	2	1	1	8
<b>Grand Total</b>	<b>236</b>	<b>212</b>	<b>338</b>	<b>281</b>	<b>337</b>	<b>1404</b>

543. The NRA's findings are part of the contents communicated in the e-learning courses and all the on-site training activities developed by the UAF. In turn, the UAF has sustained in time different contents that have enabled RIs to incorporate tools in their ML/TF prevention and detection models with a focus on domestic risks. Among these, there are the typologies reports based on ML convictions gathered by the national system, and sectoral ML/TF red flags reports, which are also compulsory for RIs.

544. In general, the courses taught by the UAF have been used as a fundamental tool to ensure RI's understanding of the obligations. Moreover, the training of all people working in the RIs is a regulatory obligation, which is subject to control.

**Table 6.21. - DNFBPs RI trained by year**

<b>Sectors under Law 19.913</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>Grand Total</b>
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Gambling Casinos	17	16	23	13	20	89
Real Estate Brokers	58	64	61	60	77	320
Companies Dedicated to Real Estate Management	69	131	144	204	640	1,188
Notaries	36	82	90	52	70	330
Registrars	8	23	7	4	5	47
Nationally designated NFBPs (includes public institutions)	428	349	284	186	221	1,468
<b>Grand Total</b>	<b>616</b>	<b>665</b>	<b>609</b>	<b>519</b>	<b>1,033</b>	<b>3,442</b>

545. The relationship and communication between the UAF and RIs is also developed through the Citizens Information and Service System (SIAC), where RIs channel their questions and doubts on the implementation of AML/CFT regulations by RIs and receive an official response on their compliance inquiries. The average response time by the UAF in 2019 was 3.85 days.

**Table 6.22. - Questions received and responses given**

Year	Total questions	Responded questions	Not-responded questions
2015	439	439	0
2016	951	951	0
2017	516	516	0
2018	604	604	0
2019	690	690	0
<b>Total</b>	<b>3,200</b>	<b>3,200</b>	<b>0</b>

546. In relation to prudential supervisors, the CMF (Banks, Securities, and Insurance) and the SP have issued regulations that strengthen and further develop the ML/TF prevention system.

547. With regard to suspicious transactions reporting, the UAF has also developed different measures to improve the quality of reports received: (i) General instruction through UAF Ordinary Letter 428 on the legal obligation to submit STRs. (ii) In June 2016, new web forms were launched to file STRs, one for each sector (private and public), which allows for a better processing of information. (iii) Issuance of instructions on the standard of information provided in STRs. (iv) Performance of feedback activities addressed to certain reporting sectors with the aim of improving the level and quality of STRs, which are reflected in the following table:

**Table 6.23. - Feedback activities on STR quality**

Feedback activities on STR quality	Number of STRs	Number of persons
<b>2018</b>		
1st Training and Feedback for Money Transfer Companies		
Money Transfer Companies	18	22
2nd Feedback to banks regarding the quality of the STRs sent to the UAF (BANKS)		
Banks	11	37
3rd Feedback to Notaries		
Notaries	25	29
<b>2019</b>		
1st STR quality training: Exchange offices and money transfer companies		

Exchange Offices	17	16
Money Transfer Companies	17	23
2nd STR quality training: Real estate brokers.		
Real Estate Brokers	26	29
3rd STR quality training: Gambling casinos		
Gambling Casinos	9	13
4th STR quality training: Companies dedicated to real estate management.		
Companies Dedicated to Real Estate Management	131	31
<b>5th STR quality training: Credit card issuers and operators</b>		
<b>Credit card issuers and operators</b>	12	16
7th STR quality training: Pension fund managers.		
Pension Fund Managers (PFM)	7	30
STR quality training: Insurance companies.		
Insurance Companies	13	17
STR quality training: Notaries and registrars.		
Registrars	3	3
Notaries	13	14
<b>Grand Total</b>	<b>302</b>	<b>280</b>

548. In addition to the above, to train compliance officers in filling out STRs, the UAF implemented a specific e-learning course that provides instructions, examples, and practical exercises on how RIs should correctly and completely fill out the STR. The exercise delivers alert messages when there is an error in filling out the form or if it is incomplete, generating at the end a STR message sent correctly when the participant has completed it satisfactorily. Between 2015 and 2019, the UAF has trained through its Virtual Learning Platform 6,806 people from 3,632 reporting institutions.

*Conclusions on Immediate Outcome 3*

549. Chile has a risk-based AML/CFT supervision framework made up by the UAF and prudential supervisors. This regime comprises both FIs and DNFBPs covered under the legislation. In relation to sectors with greater materiality (banks, securities, notaries, and real estate sectors), the UAF and prudential supervisors have made important efforts to conduct AML/CFT supervision.

550. However, considerable improvements are needed in relation to the frequency and depth of supervisions, as well as in the enforcement of effective, proportionate, and dissuasive sanctions. In relation to RBA, the UAF and the supervisors have different tools available to help to better understand ML/TF risks. The UAF, SP, and SCJ show a good level of understanding of ML/TF risks of the sectors under their jurisdiction, while that of the CMF needs to be enhanced. Even when there is cooperation between supervisors in general, it is important to improve cooperation between the CMF and the UAF since it would facilitate a broader and more frequent coverage of FIs. In relation to licensing and registration, moreover, prudential supervisors and the UAF have controls in place for criminals not to be owners, controllers, or BO of RIs, as appropriate. From the analysis of these elements, in addition to the risk and context characteristics of the country, it is considered that major improvements are needed in the field of AML/CFT supervision.

551. Chile shows a **moderate level of effectiveness in Immediate Outcome 3.**

## CHAPTER 7. LEGAL PERSONS AND ARRANGEMENTS

### *Key Findings and Recommended Actions*

#### **Key findings**

- The country has developed several studies that address to a good extent the exposure of legal entities to ML/TF risks. However, the level of knowledge of ML/TF risk and vulnerabilities of LPs is uneven and shows room for improvement in relation to certain authorities, such as prosecutors of the MP, Carabineros, and PDI.
- Basic information on LPs is largely accessible to competent authorities. However, access to BO information in a timely, appropriate, accurate, and updated manner is limited.
- Basic information on the creation and types of LPs is largely available with public access.
- The obligation to identify and update BO information is only applicable to FIs, but not to DNFBPs. Nor is there any obligation on the part of LPs themselves in terms of BO, and limited application was verified in some RIs, so there are important challenges in terms of identifying and updating BO information.
- The SII has imposed sanctions to LPs for failure to update certain basic information, and the UAF has imposed sanctions to certain RIs for BO matters. However, due to the low average amounts of SII's sanctions, and the number of cases over which the UAF has been required to initiate sanctioning proceedings in BO matters, it is considered that the proportionality and dissuasiveness of the sanctions has been limited.
- In relation to other legal arrangements, the concept of trust in Chile is different to that mentioned in Article 2 of The Hague Convention. However, foreign trusts that are not addressed or have their place of residence in Chile are required to register with the SII and provide basic and BO information of the trust. Said information is available to competent authorities through the SII's databases.

#### **Recommended Actions**

- Provide for the obligation to identify the BO by DNFBPs.
- Adapt the current regulatory framework and pursue its full implementation in relation to gathering and updating BO information of all LPs.
- Adopt measures to strengthen access to updated, accurate, and timely information on the BO by competent authorities.
- Make further efforts to achieve a range of proportionate and dissuasive sanctions which turn out to be effective against LPs that fail to update such information before the SII, and RIs that fail to collect and update BO information.
- Continue with training and dissemination of studies conducted by competent authorities to improve the understanding of ML/TF risk and vulnerabilities by LPs.

The recommendations relevant for the assessment of effectiveness under this section are R.24 and 25.

### *Immediate Outcome 5 (Legal Persons and Arrangements)*

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

#### **a. Legal entities**

552. In Chile there are LPs whose purpose is to carry out business or commercial activities, and others whose purpose is to perform non-profit activities or functions.

553. Since 2013, there is a double regime for the establishment, amendment, transformation, merger, and liquidation of legal persons whose purpose is to execute commercial or business activities. With the enactment of Law 20.659, in addition to the general regime—which implies the drafting of public deeds, registration with the Commercial Registry of the Real Estate Registrar, and publication in the Official Gazette—a parallel simplified regime is created, entitled “your company in one day,” that allows to incorporate, change, transform, merge, split, or dissolve a LP by complying with the procedures provided for in said law. For both regimes, once the LP is incorporated, they need to request the RUT to the SII for tax purposes, and the following basic information will be requested: Address, branches, business purpose or activities, partners, legal representatives, etc.

554. The different types of LP cannot be incorporated with bearer shares, since only registered shares are authorised, and in case of transfer, their buyer and seller should be identified (it can be a natural or legal person).

555. Under both regimes, general or simplified, there are civil and business companies such as: Limited liability companies, closed corporations, limited partnerships, joint stock companies, individual limited liability companies, reciprocal guarantee corporations, and commercial partnerships. Open corporations and professional sports corporations correspond exclusively to the general regime and are therefore excluded from the simplified regime. It is important to note that professional sports corporations are also controlled by the National Sports Institute of Chile in a national register, based on the corresponding legal framework of incorporation.

**Table 7.1. LPs registered with the SII**

Type of LP	Number	% part.
Limited Liability Company (LTDA)	262,071	42.0%
Joint Stock Company (SPA)	171,603	27.5%
Individual Limited Liability Company (EIRL)	118,390	19.0%
Closed Corporation	40,126	6.4%
Open Corporations	308	0.0%
Limited Partnership with Share Capital	307	0.0%
Business Partnership	20	0.0%
Limited Partnerships	19	0.0%
Sports Corporation	13	0.0%
Mutual Guarantee Corporations	3	0.0%
Other types of LPs	31,644	5.1%
<b>Total</b>	<b>624,504</b>	<b>100.0%</b>

556. As mentioned above, under the general regime, all basic information on the establishment, amendment, or transformation, as well as supporting documentation, is available at the Commercial Registry of the Real Estate Registrar, information that in the case of the Santiago Registrar and other jurisdictions, is kept digitalised and with online access, although not consolidated at the national level. Considering the number of LPs registered before the SII, 83.7% are under the scope of online Registrars.

557. The Official Gazette, which is publicly accessible, consolidates at the national level and keeps online access to an extract of the information regarding the establishment, amendment, and dissolution of LPs incorporated under the general regime, which provides timely and updated access to certain basic information of LPs.

558. The simplified regime for legal persons is managed by the MinEc and represents approximately 79% of the LPs incorporated in Chile as of 2013.

559. The process to establish, amend, or transform a LP in the simplified regime is done online, by means of an electronic signature by the applicant, or by appearing before a notary public who will complete the act of incorporation by using his or her electronic signature. Basic information on LPs is kept in a national public register of companies and firms, which is consolidated at the national level and is not subject to publication in the Official Gazette. Updates or changes, to a larger extent, must be reported to the MinEc, and the information must be updated. However, this authority does not have the power to sanction for failure to update the LP, although if the amendment is not updated, it could generally not be enforced against third parties.

560. Exceptionally, sales of shares of closed corporations are not required to be reported or updated to the MinEc, but must be recorded in the books of the LP in question.

561. LPs must update the information on certain changes through forms established for such purpose,<sup>46</sup> especially those that imply the transfer of ownership of their shares for tax purposes before the SII, which, in case of non-compliance is subject to a sanction pursuant to Article 97 of the Tax Code.

562. Based on the information provided in the course of the on-site visit, it was verified that the MJDH only supervises NPOs of an association and foundation nature. Law 20.500 requires that all NPOs must be created through a meeting whose minutes are taken, and incorporated by the corresponding municipality, through the municipal secretary, who authorises or contests it in the event of non-compliance with the process and/or legal requirements. Once the municipal secretary authorises it, all NPOs are registered in the National Registry of Non-profit Legal Entities of the Civil Registry Service, which is dependent on the MJDH, which gives them a registration number to obtain legal personality and start operating. All of this information provided for the creation of an NPO is publicly available to the municipalities and the MJDH.

563. For tax reporting purposes, all NPOs are required to obtain the RUT from the SII, where certain information is registered and updated.

## **b. Legal arrangements**

564. With respect to other legal arrangements, although in article 733 and subsequent articles of the CC, there is a legal act called trust, it does not correspond to the definition indicated in Article 2 of the Hague Convention, since it does not comply with the first characteristic that “the assets of the trust constitute a separate fund and are not part of the patrimony of the trustee.” In that sense, during the on-site visit it was possible to verify that it is a rarely used concept, which, although it is named under this term, in technical terms implies that the so-called trust property does not pass

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<sup>46</sup> <http://www.sii.cl/formularios/imagen/3239.pdf>  
<http://www.sii.cl/formularios/imagen/F4416.pdf>

to an autonomous patrimony, but to the ownership of the trustee, subject to the condition of passing to another person, by virtue of the fact that a condition is fulfilled.

565. In a similar line, Law 20.880 creates an act called “blind trust,” whose purpose is basically to ensure due compliance with the principle of integrity, for certain authorities and officials who must declare their assets publicly and subject to conditions, and delegate to third parties the administration of certain assets in which they continue to preserve the ownership. This does not fall under the concept of a trust as addressed by the Hague Convention in the previous paragraph.

566. In addition, foreign trusts that have no domicile or residence in Chile are required to register with the RUT registry and to appoint and keep an administrator, representative or agent, a natural person who has domicile or residence in Chile, with sufficient power to make the necessary arrangements and declarations before the SII. At the time of registration, the corresponding form must be filled out and the tax identification number of the country or countries where the entity has been registered must be indicated, the legal nature of the entity must be declared and the owners, participants, contributors and beneficiaries of the structure must be identified.

567. Additionally, the representative of the foreign trust must update all the information regarding the identity, ownership and other data established in SII Circular 31-2014.

568. In conclusion, it is verified that with respect to LPs constituted under both regimes (general and simplified) as well as with respect to NPOs, the information on their creation and the types of LPs in which they are constituted, are widely available with public access. Moreover, with respect to the other legal arrangements, Chilean law does not properly provide for the creation of trusts as provided in the Hague Convention, and the legal acts that exist under this concept are of little use and pursue a different purpose than that of the aforementioned convention.

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

569. The documents developed by the UAF for the identification of ML/TF risks to which legal entities are exposed, which are also prepared with the support of other competent authorities, are used in the different training sessions and e-learning courses, and are made available to the competent authorities and the general public to strengthen the understanding of the risks. Some of them are detailed below:

- **Typologies and Red Flags Report:** It is built on the basis of ML convictions handed down in Chile and since its first version (2012), it includes typologies associated with the misuse of persons and legal arrangements for ML purposes. The document has made it possible to generate and disseminate red flags regarding the misuse of legal persons to guide RIs regarding the practical understanding of this phenomenon.
- **NRA:** Along with determining the “risk of ML resulting from corruption, using the financial market or the real sector,” it evidenced the abuse of legal persons and arrangements for the purpose of concealing or hiding assets of illicit origin in ML schemes.
- **Risk analysis of legal persons and arrangements:** One of the objectives of this analysis was to identify ML/FT vulnerabilities. It reflects the potential abuse of LPs and, among other aspects related to the procedures of establishment, amendment, or dissolution of LPs, it also seeks to present the regulatory framework and the process for identifying the BO.
- **Risk analysis of the main aspects of vulnerability to abuse of NPOs for ML/TF purposes:** The UAF, with the collaboration of the SII and the Ministry of Justice, prepared this study with the objective of adopting a specific RBA for the NPO sector, which analysed

the individual behaviour of each NPO operating in the country to determine sectors or groups of NPOs at greater risk of abuse for ML/TF (this study has not been published due to its confidential nature).

570. During the on-site visit, the level of awareness of the ML/TF risks and vulnerabilities could be noticed to be uneven among LPs. On the one hand, the UAF and ULDDCO showed that they have identified and understood to a large extent the ML/TF risks of legal persons. However, prosecutors from the MP, Carabineros and PDI still have limitations in terms of adequate knowledge of the risks. Likewise, the MJDH, which is in charge of the National Registry of Non-profit Legal Entities, the MinEc, in charge of the simplified regime, and the SII, in charge of registering all LPs with tax purposes, show room for improvement in relation to the knowledge LPs' risks and vulnerabilities.

571. In relation to supervisory authorities for the financial market, the CMF for the supervision of banks, securities market and insurance companies, has a certain knowledge of the ML/TF risks and vulnerabilities of legal persons and arrangements, and particularly about what the identification of the BO implies. In turn, the SP shows a good level of understanding of the risks.

572. In conclusion, the country has largely assessed LPs' ML/TF risks and vulnerabilities, but there are asymmetries in their understanding. The UAF, ULDDCO, and SP largely understand them, and there is room for improvement in relation to prosecutors of the MP, Carabineros, and PDI, as well as the MJDH, MinEc, SII, and the CMF in its supervision of banks, securities and insurance companies, as pointed out above.

#### *Mitigating measures to prevent misuse of legal persons and arrangements*

573. Chile enacted Law 20.393 on the criminal liability of legal persons in 2009, which criminally punishes LPs for benefiting from its structure to commit ML/TF crimes, among others. This law provides for the implementation of a crime prevention model that could free the LP from criminal liability, which encourages its implementation. In the last 5 years, 5 LPs have been convicted under this law and in 9 cases there has been a conditional suspension of the proceedings.

574. The UAF issued UAF Circular 57 dated June 12, 2017, which provides for the obligation while conducting due diligence procedures for the identification and updating of BO information on any customer, whether a legal person or arrangement, national or foreign, and allows a period of one year to update existing customers' information in the portfolio.

575. This circular considers as BO individuals who directly or indirectly hold a share equal to or greater than 10% of the capital or voting rights of the LP, as well as those who otherwise exercise effective control in decision making. In this regard, the UAF monitors compliance by FIs and therefore they are subject to sanctions for non-compliance. However, the above does not apply to DNFBPs, which account for 73% of the universe of RIs, in addition to the fact that lawyers, accountants, dealers in metals and precious stones and corporate service providers have not been designated as RIs; therefore, the country faces the challenge of incorporating them given the services they provide.

576. To a certain extent, RIs have been able to obtain the necessary information, which has allowed them to detect and file STRs in relation to cases of suspicion that a LP may be being abused for illegal purposes.

577. The following statistics show the type and number of LPs reported in STRs received in the period between 2015–2019.

**Table 7.2. Type of LP reported/associated to STRs**

Type of LP	Reported	Associated	Grand Total
Limited Liability Company (LTDA)	455	303	758
Joint Stock Company (SPA)	330	186	516
Individual Limited Liability Company (EIRL)	68	51	119
Closed Corporation	144	104	248
Open Corporations	8	5	13
Limited Partnership with Share Capital	3	2	5
Other types of LPs	185	138	323
<b>Total</b>	<b>1,193</b>	<b>789</b>	<b>1,982</b>

578. The UAF has been able to analyse STRs, through which a LP is reported or associated, and generate intelligence reports that have been submitted to the MP.

**Table 7.3. LPs mentioned in UAF intelligence reports**

Type of LP	Reported	Linked	Grand Total
Limited Liability Company (LTDA)	14	15	29
Joint Stock Company (SPA)	13	14	27
Individual Limited Liability Company (EIRL)	5	11	16
Closed Corporation	12	13	25
Open Corporations	0	6	6
Limited Partnership with Share Capital	0	1	1
Other types of LPs	16	12	28
<b>Total</b>	<b>60</b>	<b>72</b>	<b>132</b>

579. The MinEc is in charge of the Simplified Regime of LPs, keeps a ML/TF Prevention handbook since 2017, recently started with an induction process for its officials and in July 2019 appointed its compliance officer. The latter is in charge of submitting STRs to the UAF in the cases that require it. It should be noted that this system averages a total of 2.7 million certifications issued online to the general population per year, with updated information on the status of the LP consulted, except for the ownership of shares of closed corporations, which is only recorded in the books of the LP, and does not have to be notified to the Ministry, unless there is a change in its statutes. However, this ministry cannot apply sanctions for non-compliance by the LPs.

580. The SII has 314,099 registered NPOs. For its part, the MJDH, as was communicated during the on-site visit, has a department with 7 officials in charge of supervising corporations and foundations, which are approximately 22,000, but not the other types of NPOs. Although these NPOs are authorised by the municipalities, there is no evidence that they are subject to greater supervision, which limits their supervision (even when this were done on a risk basis) due to the considerable gap between the number of officials who carry out the supervisions and the universe of NPOs to be monitored.

581. The area in charge of supervising NPOs of the MJDH, in the face of possible illegal events, refers cases to the MP. In addition, it has begun coordinated work with the UAF for the purpose of training in AML/CFT matters and, if necessary, making STRs.

582. The SII has approximately 5,000 employees, located in 22 regional offices and 52 units, and has trained a total of 1,041 members of its staff in AML/CFT matters. It should also be noted that this authority is part of the group of institutions that participate in the National Strategy on the field.

583. In its role of tax authority, it has control over certain basic corporate information of all taxpayers that are legal persons or arrangements, mainly through forms F3239 and F4416, which it shares online with other institutions such as the UAF and the MP. This information must be updated by the LPs that are taxpayers, including changes in ownership of shares, thus having the SII sanctioning power in case of possible non-compliance.

584. The SII, the MJDH and other public institutions are reporting institutions required to file suspicious transactions to the UAF. In this regard, they have a ML/TF prevention program that allows them to detect possible ML/TF operations involving legal persons and structures. Particularly, the SII has implemented a risk-based approach through a matrix that is fed by multiple inputs, incorporating elements that can trigger ML alerts in order to file STRs with the UAF whenever required.

585. In conclusion, there are certain mitigating measures to prevent—to a certain degree—misuse of legal persons and arrangements. However, there are opportunities of improvement in the framework of updating the LP's information and BO identification, as well as in relation to supervision carried out by the MJDH to the NPOs other than corporations and foundations.

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

586. In the general regime, basic LP information is largely available online in the Commercial Registries of the Real Estate Registrars, which the UAF, the MP, and other authorities have direct access to through interconnection.

587. For registrars that are not yet online, authorities can access basic LP information by sending an email to the compliance officer appointed by each registrar or by formal request to this effect. Similarly, the UAF, the MP, other competent authorities and the general public have online access to basic information on the LP available in the Official Gazette, which is consolidated at the national level.

588. The simplified TF regime under the responsibility of the MinEc is not registered in the Official Gazette, but the basic TF information is kept in a national public registry of companies and corporations that is consolidated at the national level and updated online, with the exception of the sales of shares of closed corporations that are not required to be reported or updated, but must be recorded in the books of the LP in question and reported for tax purposes to the SII, non-compliance with which is subject to sanction.

**Table 7.4. LPs established in Chile**

Year	No. LPs established in Chile	
	Simplified Regime	General Regime
2015	64,781	38,133
2016	76,174	33,706
2017	87,554	31,170
2018	101,998	30,742
2019	109,422	29,165
<b>Total</b>	<b>439,929</b>	<b>162,916</b>

589. Certain information on NPOs at the national level is obtained from the National Registry of Non-profit Legal Entities of the Civil Registry Service, which is part of the MJDH and maintains online information available to the public. In addition, other information can be obtained from the corresponding municipality. Similarly, all NPOs, as indicated above, must obtain a RUT from the SII for tax reporting purposes, where certain information is recorded.

590. The SII shares information with other authorities, and in this respect has granted interconnection to its database to the UAF and the MP, where basic information on LPs, changes in ownership of shares or any type of data that create a tax duties is registered.

591. It should be noted that, according to the Chilean legal regime, in general, in order for the acts of establishment, amendment, extinction or changes in the administration and ownership of LPs to have full effect (be enforceable against third parties), they must be registered. Thus, the information recorded is updated. Consequently, when competent authorities access basic information on LPs, they access to updated information.

592. Moreover, as a result of the multilateral initiative Open Government Partnership Chile has been part of since 2012, three action plans have been implemented. The fourth action plan is under full development (2018–2020) and includes commitment 11 relating to the creation of a centralised registry of natural persons that are BOs of companies in Chile, as well as an evaluation of their transparency. The study will contemplate two main aspects: Registry (type of registries, possible sanctions, thresholds) and the transparency of the Registry.<sup>47</sup>

593. The information collected by FIs on BO is available to the UAF and other supervisors within the scope of the processes of supervision of preventive measures. The MP, PDI and Carabineros have direct access to different relevant databases<sup>48</sup> for the identification of BO of legal persons in accordance with the provisions of the guide on asset investigation. However, in the case of banks, if the MP needs to collect BO information, it must obtain a court order or judicial assistance, although it was verified that this requirement has not been an obstacle to access information.

<sup>47</sup> The work on this commitment began during the second semester of 2018 through the first coordination meeting between its members in order to comply with the 5 phases therein included (phase I: feasibility study, phase II: drafting of final report; phase III: public consultation; phase IV: legislative reform commission; and phase V: publication of final report). At the moment, phase III is about to begin, while the final phase V is expected to end in August 30, 2020. For phase IV (early August), a commission is expected to be appointed to consider necessary changes in Chilean legislation for the implementation of the registry.

<sup>48</sup>Such as the Official Gazette, the Registry of Commerce, the Registry of the Ministry of Economy or other available databases, which are added to the interconnection system available to the MP.

594. There are non-designated activities as RIs (lawyers, accountants, corporate service providers, etc.) that are not required to identify the BO. FIs, during their due diligence procedures, are required to identify, verify and update BO, even though during the on-site visit it was verified that, in certain cases, insurance sector companies, for instance, have had limitations to fully implement UAF Circular 57. In particular, there is a challenge with customers already in the portfolio upon issuance, but that are supervised by the UAF which, during the on-site visit, notified having initiated sanctioning procedures and applied sanctions upon non-compliance on the matter. LPs are not required to collect BO information.

595. On this regard, it is concluded that competent authorities have good access to basic, accurate and updated information on legal persons. In relation to the general regime, access is through direct online consultation of the Official Gazette, or through direct access to information of real estate registrars that have digitalised their systems, or by making a request by e-mail to those that have not done so yet.

596. In the simplified registration regime, access is made through direct online consultation. In addition, the SII has set up its databases to obtain certain basic information on LPs. Information on NPOs can be obtained by consulting the Civil Registry Service or to the corresponding Municipality.

597. In the next chart, examples of use of investigative powers to gather basic information about LPs are shown:

**Box No. 9 – Use of investigative powers to obtain basic information about LPs**

**“La Polar” Case**

The corporate or legal entity network that was used to receive the funds of illicit origin, operated by some of the executives of the company in question, was identified.

**“Verde Austral” Case**

People were identified as the real (concealed) owners of a number of properties, resulting from the misappropriation of public funds.

In both cases, the following tools were used to obtain basic information about the investigated LPs:

- Company 1: It is a database that can be accessed through the corporate name or RUT of the legal person. It has the particularity that has structured the corporate participation in descending levels, so it can be expanded when companies are the owners of another company, to be able to reach the natural persons partners.
- CMF: In this database main shareholders of open corporations (S.A.) can be found, so it is mainly used in the specific search for this kind of companies. S.A. have the obligation to inform the CMF of a series of background information, including the identity of their shareholders.
- Company 2: It is a database that can be accessed through the corporate name or RUT. It is used for different types of companies, when information is to be obtained not only about the partners, but also about other types of background with respect to the company consulted (addresses, size of the company, its level of financial risk, among other additional data).
- SII: Information on the identity of the representatives of the different institutions before the SII can be accessed. It should also be noted that a high percentage of them are also the main shareholders.

- Electronic Official Gazette: This database provides access to the articles of incorporation of the various companies, as well as their subsequent amendments, but also serves to identify the partners or shareholders of the companies.
- Company in one day: There is the possibility of consulting information on incorporations, amendments and partners of those companies that use this more expeditious form of incorporation.
- Real Estate Registrars and Notaries Public online: These sources of information have the purpose of obtaining information about the ownership of real estate (CBR) and the deeds of incorporation and amendments managed (Notary's offices), only in the case that it does not appear in the information published in the Official Gazette (existence of mortgages, form of payment of the participation, among others), as well as very old deeds.

598. In relation to BO information, there is a significant impact in relation to the following:

- (i) Certain activities have not been included as RIs, therefore are not required to identify and verify the BO.
- (ii) The legal framework of UAF Circular 57 is not applicable to DNFbps.<sup>49</sup> It should be noted that in the AML/CFT system these cover a total of 2,860 RIs, compared to 1,061 FIs. Likewise, certain DNFbps have been identified in the NRA and in the different strategic analyses as sectors that could be used in ML/TF schemes for the placement or layering of money of illicit origin, through the creation of companies or other arrangements, or through the acquisition of different property, among others.
- (iii) There is no obligation on this regard by LPs themselves.

599. In this sense, FIs collect and update their customers' BO information. However, during the on-site visit, medium/low materiality FIs from the insurance sector were found to have certain limitations in relation to the enforcement of such measures. These elements could limit the scope of the system and the possibility of accessing this information by the competent authorities.

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

600. As mentioned in the analysis of cf. 5.1 and 5.2, the trust provided for in Article 733 and subsequent articles of the CC and Law 20.880, does not fall within the configuration of the trust figure provided for in Article 2 of the Hague Convention.

601. As for foreign legal arrangements operating in the Chilean financial system, in their capacity as customers of FIs, they must obtain information on the identity and domicile of the relevant natural person holding the highest management position abroad and of their legal representatives domiciled in Chile, and within 45 days, all information on their BO.

602. Furthermore, in the case of trusts created abroad, the SII shares information with competent authorities by means of interconnection to its database where basic information is recorded and, on the beneficiary, or any other type of data that creates a tax obligation for foreign trusts.

603. However, the limitations described in section 5.4 are verified, around which certain FIs have had certain difficulty in achieving the full implementation of such measures, especially with

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<sup>49</sup> However, some RIs from the real estate and casinos sectors include within their manuals the definition of BO as well as procedures for its identification.

customers that they already had in their portfolio at the time of the issuance of the UAF Circular 57, added to the fact that the referred circular, is not applicable to DNFBPs, which restricts the scope of the system and the possibility of access to this type of information by the competent authorities.

*Effectiveness, proportionality, and dissuasiveness of sanctions*

604. There are legal provisions that largely provide for the need to update LPs’ basic information, both under the general and simplified regimes. However, there are no powers for the implementation of sanctions by the authorities in charge of such LPs registration regimes, although the lack of updating in this regard could limit the enforceability of the acts of amendment against third parties with legitimate interest, until they are registered and updated, which causes such updates to materialise.

605. For tax purposes, all LPs, including NPOs, must request the RUT to the SII, communicate and update on any change in its basic information, particularly share-holding or ownership changes, which is subject to sanction by the SII. This institution has imposed a considerable number of sanctions between 2015 and 2019; it has applied sanctions in 65,833 cases for a total amount of USD 4,746,430, which represents an average of USD 73 per case. Given the average amount of such sanctions, their proportionality and dissuasiveness are considered limited.

606. In relation to compliance by FIs with obligations on BO identification based on UAF Circular 57, supervision is conducted by the UAF, including its on-site supervisory and sanctioning powers for non-compliance with its regulations.

607. Of the total number of FIs (1,061) subject to the obligation to identify the BO, between 2018 and 2019 the UAF audited 130 RIs on BO issues in compliance with UAF Circular 57, and in 63 cases it requested to the Legal Department to initiate the respective administrative sanctioning processes, as detailed below:

**Table 7.5 Sanctioning procedures in case of non-compliance with the obligation to identify BO**

Year	On site supervisions	Referred to the LD for non-compliance with Circular 57
2018	67	34
2019	63	29
<b>Total</b>	130	63

608. Of the 63 sanctioning infringement procedures initiated by the UAF for non-compliance with the C57, 49 (77%) were for the formulation of charges and for the application of sanctions for non-compliance by the RIs.

609. During the on-site visit it was reported that in 54% of the cases in which the UAF has imposed sanctions for non-compliance with any aspect of the AML/CFT program, including BO elements, it has been verified that RIs have remedied the irregularity. However, based on the

number of FIs that are required to do so, the number of supervisions in this regard is 12,25%,<sup>50</sup> and the number of subjects on whom the initiation of a sanctioning process has been required is even more limited.

610. In the case of DNFBPs, there are no sanctions in this regard because they are not required to identify and verify the identity of their customers' BO.

611. In conclusion, the SII has imposed a considerable number of sanctions to LPs for failure to update certain basic information collected for tax purposes, but based on the average amounts of such sanctions, their proportionality and dissuasive effect is considered limited.

612. Finally, the application of effective, proportionate, and dissuasive sanctions against FIs that do not comply with the requirements for obtaining information of the BO of legal persons is limited, and it is not possible to sanction DNFBPs for the lack of identification or updating of BO.

#### *Conclusions on Immediate Outcome 5*

613. Information on the creation and type of LPs is widely available. The UAF conducted an LPs' ML/TF risks study that is added to other studies or strategic products or red flags, although the understanding of ML/TF risks and vulnerabilities of legal persons in Chile is uneven.

614. Competent authorities may largely access to LPs' basic information that is available directly online or upon request. In relation to BO information, however, availability is limited. FIs are the source of BO information, while DNFBPs and LPs, in general, are not required to identify and update BO information. There is no authority in charge of requesting and keeping such information. This hinders timely access by competent authorities to updated and accurate BO information.

615. The SII is in charge of the sanctioning regime for the lack of updating of basic information for tax purposes of the LPs and trusts constituted abroad, as well as the UAF, for the lack of compliance with measures related to the identification of the BO. However, the proportionality and dissuasiveness are limited due to the low amounts and few cases. Considering these elements, it is concluded that the improvements that Chile requires in this matter are of a fundamental nature.

616. Therefore, it is concluded that **the Republic of Chile shows a low level of effectiveness in Immediate Outcome 5.**

## CHAPTER 8. INTERNATIONAL COOPERATION

### *Key Findings and Recommended Actions*

#### **Key findings**

- Chile has a central authority designated to deal with MLA and extradition requests in a constructive and timely manner.

<sup>50</sup> In other words, out of the total of 1061 FIs that exist, 130 supervisions on BO issues have been carried out, 67 in 2018 and 63 in 2019.

- Both MLA and international cooperation mechanisms have been useful for requesting states, as well as domestically.
- International cooperation in Chile is of a proactive nature and is governed by the principle of reciprocity. The country provides spontaneous international cooperation, based on various bilateral agreements.
- The prioritisation of international cooperation requests is effective and confirms that they are executed in a timely manner, based on the needs of each individual request.
- Competent authorities in Chile have the capacity to make cooperation requests to their counterparts, using different platforms for the exchange of information in order to safeguard their confidentiality.
- The country has had experiences of formation of joint investigation teams, controlled delivery procedures coordinated with foreign counterparts, and active and passive cases of repatriation and distribution of assets.
- The UAF has the capacity to provide international cooperation in the field of financial intelligence.
- Deficiencies identified in IO.5 on BO information may have an impact on the provision of international cooperation in this area.

**Recommended Actions**

- Keep existing cooperation mechanisms active so that constructive and timely cooperation actions can continue.
- Strengthen the capacities of legal persons and arrangements to provide information on BO, in order to guarantee satisfactory and timely attention to international cooperation requests.
- Develop protocols or procedures to prioritise and properly implement international cooperation in all relevant authorities.

The relevant Immediate Outcome considered and assessed in this chapter is IO.2. The Recommendations relevant for the assessment of effectiveness under this section are R.36–40.

*Immediate Outcome 2 (International Cooperation)*

617. Chile has a legal basis for providing a wide range of mutual legal assistance (MLA). Cooperation may be provided in accordance with bilateral and multilateral treaties on criminal matters ratified by the country, and—in absence of such treaties—on the basis of reciprocity.

618. The country has different mechanisms or instruments for the exchange of information. It has signed various memoranda or agreements, both with counterparts and with international organisations, which do not condition the signing for collaboration; based on the principle of reciprocity, they have provided timely collaboration.

*Granting of mutual legal assistance (MLA) and extradition.*

619. Mutual legal assistance plays an important role for Chile. During the on-site visit, the primary role given to the MP as a central actor in international cooperation processes was highlighted. The country provides collaboration under the principle of reciprocity, regardless of whether or not there is a cooperation agreement in place.

620. The country provides constructive and collaborative assistance, which was corroborated through statistical data and complementary information provided by the national competent authorities, as well as the feedback received from 17 jurisdictions of the FATF Global Network

(GAFILAT, FATF and other countries members of FATF-style Regional Bodies). Some countries described the assistance as efficient and timely, as well as useful and of good quality. Additionally, no violations of confidentiality were reported.

621. MLA processing includes the provision of information, records, statements, and other investigative activities, in accordance with international treaties and conventions in force and the particular domestic law of each State.

622. Chile has a central authority designated to handle MLA and extradition requests through the International Cooperation and Extraditions Unit of the Prosecutor’s Office (UCIEX). This unit is in charge of executing and monitoring compliance with requests, and has a staff of 6 lawyers and 3 support staff members, who are trained to carry out their functions.

623. The requests received are referred to the competent local prosecutor’s office according to the territory where the required proceedings are to be carried out. UCIEX provides guidance to the country’s prosecutors who wish to make MLA requests to other countries, and handles the responses for foreign counterparts. Extradition processes are also executed by UCIEX.

624. Chile responds to multiple MLA requests and, in order to speed up the processes and prioritise requests, has promoted the electronic processing of requests, receiving and sending requests by e-mail with electronic signature. Considering the number of requests received, as well as certain transnational elements of the requests, this mechanism is used mainly for requests from Argentina, Brazil, Canada, Ecuador, United States, and Peru.

625. Between 2015 and 2019, UCIEX received 1,452 passive requests for formal international criminal assistance. Double criminality is not an impediment for Chile to provide cooperation to its counterparts.

**Table 8.1. Total passive MLA requests by country and year**

COUNTRY	2015	2016	2017	2018	2019	GRAND TOTAL
Germany	1	3	1	1	3	9
Andorra	0	0	1	0	0	1
Argentina	74	60	63	53	28	278
Australia	0	0	0	2	0	2
Austria	1	0	0	0	1	2
Belgium	0	0	1	1	0	2
Belarus	0	0	1	0	0	1
Bolivia	5	9	10	12	2	38
Brazil	10	5	9	11	11	46
Bulgaria	1	0	0	1	0	2
Colombia	4	10	11	17	4	46
Colombia / Peru	0	1	0	0	0	1
South Korea	0	1	1	1	0	3
Cuba	0	1	0	1	0	2
Denmark	0	0	0	1	0	1

Ecuador	0	2	4	6	3	15
El Salvador	0	0	0	1	1	2
Spain	23	33	37	30	11	134
United States	2	2	2	6	0	12
Estonia	1	0	0	0	0	1
Finland	1	0	1	0	0	2
France	1	3	2	5	1	12
Guatemala	0	1	1	1	0	3
Netherlands	0	3	3	2	0	8
Hungary	1	0	1	1	0	3
Israel	0	0	0	0	1	1
Italy	0	0	0	4	1	5
Liechtenstein	0	1	0	1	0	2
Lithuania	1	0	0	0	0	1
Mexico	9	6	4	7	1	27
Panama	2	5	5	3	1	16
Paraguay	5	7	2	1	4	19
Peru	135	117	149	166	114	681
Poland	3	3	3	2	3	14
Portugal	2	3	6	5	1	17
Czech Republic	2	2	0	0	0	4
Romania	0	3	1	2	2	8
Sweden	1	1	1	0	0	3
Switzerland	1	2	2	9	2	16
Turkey	2	3	1	0	1	7
Uruguay	0	0	1	1	0	2
Venezuela	2	0	0	0	1	3
<b>GRAND TOTAL</b>	<b>290</b>	<b>287</b>	<b>324</b>	<b>354</b>	<b>197</b>	<b>1452</b>

626. Between 2015 and 2019, 103 requests for MLA linked to ML were received. The response time varies between 4 and 8 months depending on the complexity and nature of the request. Most of the countries that provided comments on the MLA provided by Chile indicated satisfaction with the average time and quality of the response.

**Table 8.2. Total passive MLA requests by country and year related to ML**

<b>COUNTRY</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>June 2019</b>	<b>GRAND TOTAL</b>
<b>Argentina</b>	1	1	0	0	0	<b>2</b>
<b>Australia</b>	0	0	0	1	0	<b>1</b>
<b>Bolivia</b>	0	0	0	0	1	<b>1</b>
<b>Colombia</b>	0	0	1	1	0	<b>2</b>
<b>Cuba</b>	0	0	0	1	0	<b>1</b>
<b>Ecuador</b>	0	0	0	1	0	<b>1</b>
<b>El Salvador</b>	0	0	0	1	1	<b>2</b>
<b>Spain</b>	1	0	1	0	0	<b>2</b>

<b>United States</b>	0	1	0	0	0	<b>1</b>
<b>Peru</b>	5	12	21	31	18	<b>87</b>
<b>Poland</b>	0	1	1	0	1	<b>3</b>
<b>Czech Republic</b>	1	0	0	0	0	<b>1</b>
<b>GRAND TOTAL</b>	8	14	24	36	21	<b>103</b>

**Table 8.3. Passive MLA requests per predicate offence (2015–2019)**

PREDICATE OFFENCE	2015	2016	2017	2018	2019(*)	TOTAL
Smuggling	0	0	1	1	0	2
Corruption/Bribery	0	0	0	1	0	1
Corruption	0	1	1	3	4	9
Corruption/Embezzlement	0	0	0	1	0	1
Tax Fraud	0	0	0	0	1	1
Customs offence of loss of domain	0	0	0	1	0	1
Economic crime	0	0	1	0	0	1
Economic (credit card fraud)	1	0	0	0	0	1
Illicit enrichment of individuals	0	0	0	1	0	1
Illicit enrichment of civil servant	0	0	1	0	0	1
Illicit enrichment/corruption	0	0	0	1	0	1
Swindling	0	1	2	0	1	4
Irregular funding of political party	0	0	1	0	0	1
Thefts and other crimes against property	0	0	0	1	0	1
Illegal mining and organised crime	0	1	0	0	0	1
Prohibition to enter money into the country	0	1	0	0	0	1
No information	4	7	16	22	12	61
Illicit drugs and/or arms trafficking	1	0	0	0	0	1
Illicit drug trafficking	2	2	1	4	3	12
Transportation of money	0	1	0	0	0	1
<b>Grand Total</b>	<b>8</b>	<b>14</b>	<b>24</b>	<b>36</b>	<b>21</b>	<b>103</b>

627. In order to communicate and coordinate with foreign competent authorities, the MP keeps contact information updated in the websites of the conventions to which Chile is a party, as well as in the Registry of the International Association of Prosecutors.

628. In matters of extradition, Chile is a signatory of the following instruments: Extradition Agreement between Mercosur, Bolivia and Chile, Extradition Treaty between Chile and Ecuador, Extradition Treaty between Chile and Colombia, Extradition Treaty between Chile and Peru, Extradition Treaty between Chile and Venezuela, Extradition and Criminal Assistance Treaty between Chile and Spain, Extradition Treaty between Chile and USA, Extradition Treaty between Chile and Italy.

629. Chile provides effective cooperation in extradition matters. UCIEX represents the interests of the states requesting extradition before the Supreme Court, which is the authority that makes the final decision. Between 2015 and 2019, a total of 135 extradition requests have been processed, of which 102 are completed, 53 correspond to cases in which extradition was granted, 33 are in progress, and 21 were denied.

**Table 8.4. Total Number of Passive Extradition Requests by Year (2015–2019)**

TYPE	2015	2016	2017	2018	2019(*)	Total
PASSIVE EXTRADITION	23	25	32	40	15	135

Source: data provided by the MP Note: 33 are open and 102 are closed

**Table 8.5. Outcomes of Passive Extradition Requests by Year (2015–2019)**

OUTCOMES OF THE CASE	2015	2016	2017	2018	2019(*)	Total
Active	2	3	7	9	12	33
Filed	2	1	1	2	0	6
Filed for being out of Chile	0	2	0	2	0	4
Filed, expelled from Chile	0	0	1	0	0	1
Grants extradition	9	11	17	15	1	53
Desists	0	0	2	1	0	3
Background is missing	1	0	0	0	0	1
Arrest warrant pending execution	1	0	0	0	0	1
Rejects extradition	3	8	4	5	1	21
Old system	3	0	0	5	1	9
Requested is outside Chile. Not processed	2	0	0	1	0	3
<b>Total</b>	<b>23</b>	<b>25</b>	<b>32</b>	<b>40</b>	<b>15</b>	<b>135</b>

Source: data provided by the MP

(\*) Data as of June 2019

630. The main reasons for refusing extradition requests are that the requested party is not in the country and that the requesting country has not provided the necessary information.
631. The following is a case of a passive MLA request with an extradition component:

**Box N° 10 – MLA request with an extradition component**

**Netherlands Case**

The investigation was initiated by a complaint to the O.S. 7 Anti-Drug Department of Carabineros, which referred to information obtained through the police liaison of the Kingdom of the Netherlands that the Chilean citizen R.E.R.V. was being investigated in the Netherlands for the crimes of Homicide, Drug Trafficking and Money Laundering. This report details that R.E.R.V. would be considered in the Netherlands as one of the foreign leaders of a criminal organisation, dedicated to laundering the proceeds of drug trafficking and other crimes. The report also indicated that the subject would carry out his criminal activities receiving support from his family group, which would have acquired a series of assets in Chile with illegal money.

The MP issued an order to investigate the crime of money laundering, aimed mainly at identifying the subject’s family network, their homes, telephones, and assets in Chile. At the same time, notices were sent to various public agencies requesting personal and property information.

During 2017 and 2018, the Kingdom of the Netherlands formulated several requests to Chile to carry out investigative proceedings related to R.E.R.V. activities, which were attended in due time and form by the North Central Metropolitan Regional Prosecutor’s Office.

**Extradition**

In October 2017, the Prosecutor’s Office of the Judicial District of Amsterdam, Kingdom of the Netherlands, requested—through diplomatic channels—the extradition of the Chilean-Dutch citizen for his trial by Dutch courts, within the framework of the 130 Rinus investigation.

He was required to be extradited for his criminal participation in four crimes: Smuggling of hard drugs, money laundering, membership in a criminal organisation—he could be the leader—and possession of illegal weapons.

In the absence of a specific extradition treaty between Chile and the Kingdom of the Netherlands (Netherlands), the United Nations Convention on Transnational Organised Crime (Palermo, 2005)

and the United Nations Treaty on Illicit Drug Trafficking, to which both countries are signatories, were invoked.  
In short, on January 15, 2018, the Investigating Minister granted the extradition of the accused.

632. The prioritisation of MLA requests and extraditions are governed by the Guidelines for the Processing of Requests carried out by UCIEX, which has databases for monitoring their timely execution.

633. From the above, it is considered that the country has effective mechanisms to provide assistance and effective and constructive collaboration, as well as to process extradition requests, which is corroborated by the feedback received from 17 jurisdictions of the FATF Global Network.

*Seeking timely legal assistance to combat the national LA, associated determining crimes and TF cases with transnational elements*

634. Requests to other countries for extraditions and MLA are processed through the MP (UCIEX). As a central authority, UCIEX advises prosecutors at the national level on requests and the correct way to make them, and also monitors and follows up on them in order to obtain information for the investigative process in a timely manner.

635. Chile requests international cooperation through MLA to other countries to gather relevant information for the cases it has under investigation. Between 2015 and 2019, UCIEX made 74 MLA requests associated with the crime of ML, and has received responses to 26 cases.

**Table 8.6. Total active MLA requests by country and year, related to ML 2015–June 2019**

COUNTRY	2015	2016	2017	2018	2019	GRAND TOTAL
Germany	0	2	0	0	0	2
Andorra	0	0	0	0	1	1
Antigua and Barbuda	0	1	0	0	0	1
Argentina	0	1	1	1	0	3
Aruba	0	1	0	0	0	1
Australia	0	2	0	1	0	3
Austria	0	1	0	0	0	1
Bolivia	0	0	0	0	1	1
Colombia	0	2	2	0	2	6
Costa Rica	0	1	0	0	0	1
Ecuador	0	1	0	0	0	1
El Salvador	0	0	0	1	0	1
Spain	0	1	1	0	1	3
United States	1	4	2	3	0	10
Estonia	0	1	0	0	0	1
France	0	2	0	0	0	2
Netherlands	0	2	0	0	0	2
Isle of Man	0	1	0	1	0	2
Virgin Islands	0	1	0	0	0	1
Israel	0	1	0	0	0	1

<b>Luxembourg</b>	0	0	0	1	0	1
<b>Malta</b>	0	2	0	1	0	3
<b>Mexico</b>	0	1	0	0	0	1
<b>Norway</b>	0	1	0	0	0	1
<b>Panama</b>	0	1	0	0	0	1
<b>Paraguay</b>	0	1	0	0	0	1
<b>Peru</b>	0	1	0	1	1	3
<b>Poland</b>	0	1	0	0	0	1
<b>United Kingdom</b>	0	3	0	0	0	3
<b>Dominican Republic</b>	0	1	0	0	0	1
<b>Saint Kitts and Nevis</b>	0	1	0	0	0	1
<b>San Marino</b>	0	1	0	0	0	1
<b>Saint Vincent and the Grenadines</b>	0	1	0	0	0	1
<b>Saint Lucia</b>	0	1	0	0	0	1
<b>Seychelles</b>	0	1	0	0	0	1
<b>Singapore</b>	0	1	0	1	0	2
<b>Sweden</b>	0	1	0	0	0	1
<b>Switzerland</b>	0	2	0	1	0	3
<b>Thailand</b>	0	1	0	0	0	1
<b>Taiwan</b>	0	0	0	1	0	1
<b>Uruguay</b>	0	1	0	0	0	1
<b>GRAND TOTAL</b>	1	48	6	13	6	74

**Table 8.7. Total active MLA requests for ML based on predicate offence (2015 to June 2019)**

<b>Predicate Offence</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>Total</b>
Criminal association	0	0	0	1	0	1
Criminal Associations/ Corruption/ Misappropriation of funds	0	0	0	1	0	1
Bribery of public officials	1	0	2	0	0	3
Smuggling	0	1	0	0	1	2
Corruption	0	0	0	2	3	5
Illicit enrichment of individuals/illegal mining	0	0	0	0	1	1
Swindling	0	44	0	8	0	52
Terrorist financing	0	0	0	1	0	1
No information	0	0	1	0	0	1
Illicit drug trafficking	0	3	2	0	1	6
Usury	0	0	1	0	0	1
<b>Total</b>	1	48	6	13	6	74

636. Between 2015 and 2019, the country made 1,046 active requests for formal international criminal assistance to other countries

**Table 8.8. Total active MLA requests by country and year (2015 to June 2019)**

<b>COUNTRY</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>GRAND TOTAL</b>
Germany	1	5	0	1	0	7
Andorra	0	1	0	0	1	2
Antigua and Barbuda	0	2	0	0	0	2
Argentina	19	13	9	16	4	61
Aruba	0	2	0	0	0	2
Australia	1	3	0	4	1	9
Austria	0	2	1	0	0	3
Bahamas	0	1	0	0	0	1
Barbados	0	1	0	0	0	1
Belgium	0	1	0	0	0	1
Belize	0	1	0	0	0	1
Bermudas	0	1	0	0	0	1
Bolivia	175	64	19	18	5	281
Brazil	1	7	2	3	1	14
Bulgaria	0	0	1	0	0	1
Canada	1	2	0	1	0	4
Chile	0	1	0	0	2	3
China	0	1	0	0	0	1
Cyprus	0	0	1	0	0	1
Colombia	40	63	31	16	5	155
South Korea	1	0	0	0	0	1
Costa Rica	0	3	0	0	0	3
Croatia	0	1	0	0	0	1
Cuba	1		0	0	0	1
Curaçao	0	1	0	0	0	1
Denmark	0	1	0	0	0	1
Dominica	0	1	0	0	0	1
Ecuador	7	9	8	5	1	30
El Salvador	0	0	0	1	1	2
Arab Emirates	0	0	0	0	1	1
Slovakia	0	0	0	0	1	1
Spain	4	7	4	4	2	21
United States	20	28	13	20	5	86
Estonia	0	1	0	0	0	1
France	0	3	1	0	0	4
Grenada	0	1	0	0	0	1
Guatemala	1	0	0	1	0	2
Haiti	2	1	0	0	1	4
Netherlands	0	3	0	1	0	4

Indonesia	0	0	1	0	0	1
Ireland	0	0	2	0	0	2
Isle of Man	0	1	0	1	0	2
Cayman Islands	0	1	0	0	0	1
Mauritius	0	1	0	0	0	1
Virgin Islands	0	2	0	0	0	2
Israel	1	1	0	0	0	2
Italy	0	1	2	3	0	6
Jordan	0	1	0	0	0	1
Liechtenstein	0	1	0	0	0	1
Luxembourg	0	1	0	1	0	2
Malaysia	1	1	0	0	0	2
Mali	0		0	1	0	1
Malta	0	3	0	1	0	4
Mexico	1	5	1	1	0	8
Monaco	0	1	0	0	0	1
Norway	0	1	1	0	0	2
New Zealand	0	1	0	0	0	1
Panama	1	2	2	0	0	5
Paraguay	8	6	1	2	0	17
Peru	97	47	21	18	9	192
Poland	0	2	0	0	0	2
Portugal	0	1	0	0	0	1
United Kingdom	1	4	0	0	1	6
Dominican Republic	8	12	1	7	0	28
Russia	0	1	0	0	0	1
Saint Kitts and Nevis	0	2	0	0	0	2
San Marino	0	2	0	0	0	2
Saint Vincent and the Grenadines	0	1	0	0	0	1
Saint Lucia	0	1	0	0	0	1
Seychelles	0	2	0	0	0	2
Singapore	0	1	0	1	0	2
Sweden	0	2	0	0	2	4
Switzerland	0	3	0	1	0	4
Thailand	0	2	0	0	0	2
Taiwan	0	1	0	1	0	2
Uruguay	2	1	0	0	1	4
Vatican City	0	0	0	3	0	3
Venezuela	4	1	1	0	2	8
<b>GRAND TOTAL</b>	<b>398</b>	<b>347</b>	<b>123</b>	<b>132</b>	<b>46</b>	<b>1,046</b>

**Table 8.9. Total active MLA requests by crime category and year**

<b>CATEGORIES OF OFFENCES</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019(*)</b>	<b>GRAND TOTAL</b>
Organised crime	0	0	2	1	0	3
Quasi-offences	0	0	0	1	0	1
Environmental crime	0	1	0	0	0	1
IT crime	1	2	1	0	0	4
Crimes against public faith	11	13	13	5	0	42
Crimes against the freedom and privacy of persons	26	22	13	13	8	82
Special laws offences	6	2	3	1	0	12
Economic and tax crimes (**)	12	57	18	8	6	101
Public officials' crimes	7	7	3	7	3	27
Drug law offences	269	140	31	37	3	480
Traffic law offences	2	5	0	1	0	8
Sexual offences	15	9	8	12	5	49
Faults	1	0	0	0	0	1
Criminally relevant events	3	4	0	1	5	13
Murder	17	12	11	9	6	55
Thefts	0	3	0	2	1	6
Money laundering	1	50	7	13	6	77
Injuries	2	2	1	1	1	7
Other crimes	4	2	1	3	1	11
Other crimes against property	0	0	1	1	0	2
Robbery	13	13	8	10	1	45
Non-violent robbery	5	3	2	4	0	14
No information	2	0	0	2	0	4
Terrorism	1	0	0	0	0	1
<b>GRAND TOTAL</b>	<b>398</b>	<b>347</b>	<b>123</b>	<b>132</b>	<b>46</b>	<b>1046</b>

(\*) Data as of June 2019

(\*\*) This category includes the crime of smuggling

637. Chilean authorities also make use of international cooperation to make extradition requests to other countries. Between 2015 and 2019, 141 extradition requests have been registered, 88 of which are still pending.

638. The MP (UCIEX) under the terms of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Organised Crime (Vienna and Palermo) has formed a joint investigation team (ECI, as per its acronym in Spanish) with the Republics of Ecuador and Colombia to carry out investigations for the crime of Illicit Drug Trafficking and ML, in which it plays an active role.

639. Chile has 27 instruments in the area of international cooperation signed with different countries and international organisations such as: United Mexican States, El Salvador, Nicaragua, Guatemala, International Bank for Reconstruction and Development (World Bank), Uruguay, Peru, Ecuador, Germany, France, Argentina, Israel, Inter-American Development Bank, Universitat Pompeu Fabra, Spain, Cuba, Panama, Russia, Italy, Paraguay, Honduras.

640. As noted above, the country, through the MP as the central authority, makes use of the MLA to obtain effective and timely information for the success of cases under investigation that are in line with the threats identified in its risk assessment, and also makes use of international cooperation to make extradition requests to other countries.

*Seeking other forms of international cooperation for AML/CFT purposes*

641. Chilean authorities request other forms of international cooperation for AML/CFT purposes. They are part of multiple international networks that are used for the effective and timely exchange of information, as well as the creation of working groups with agencies from other countries.

642. The MP is part of multiple international networks that are used for the effective and timely exchange of information for cases under investigation. It can make requests through INTERPOL, the Asset Recovery Network of GAFILAT (RRAG), and Network 24/7 of the Council of Europe Convention on Cybercrime.

643. Between 2015 and 2019, UCIEX carried out 38 consultations on both ML and predicate offences, including the case of a drug trafficker, head of a drug trafficking network with branches in Europe and South America, a pyramid scheme investigation. Through INTERPOL, 1,871 informal consultations were made; through the 24/7 Network 24 consultations were made between 2017 and September 2019.

**Table 8.10. Assets identified through the RRAG (January to July 2019)**

Type of Property	Amount in USD	Number of assets
Company	USD 143,350	10
Vehicles	USD 120,538	24
Real estate	USD 0	4
Bank products	USD 0	22
<b>Grand Total</b>	<b>USD 263,888</b>	<b>60</b>

644. The UAF, as a member of the Egmont Group, and in line with its operational intelligence needs, uses the secure web platform for the exchange of financial intelligence information with its counterparts abroad. Between 2014 and June 2019, it made 392 requests to FIUs from 60 countries: 22 from the Americas (258 requests), 10 from Asia and Oceania (27 requests), and 28 from Europe (107 requests).

645. The MP participates in International Fora: Ibero-American Association of Public Prosecutors (AIAMP), Specialised Meeting of Mercosur Attorney General’s Offices (REMPM), International Association of Prosecutors (IAP), Ibero-American Network of International Legal Cooperation (IBERRED), Committee of Experts on the Operation of European Conventions on Cooperation in Criminal Matters (PC-OC), Meeting of Ministries of Justice, Other Ministers, Prosecutors and Attorney Generals of the Americas (REMJA), European Judicial Network (EJN), Working Group on International Cooperation of the Conference of the Parties to the United Nations Convention against Transnational Organised Crime (UNTOC), Commission on Crime Prevention and Criminal Justice (CCPCJ), Commission on Narcotic Drugs, CND, HONLEA, CICAD-OAS, COPOLAD, Ibero-American Network of Anti-Drug Prosecutors (RAFI), UNASUR’s South

American Council on the World Drug Problem, Forum for East Asia- Latin America Cooperation (FEALAC), MESISIC, UNCA, OECD, Global Anti-Corruption and Integrity Forum (OECD), LAC LEN, CICTE’s Inter-American Committee against Terrorism-Security Program, among others.

646. The PDI is also part of international cooperation networks for the exchange of information, through the RRAG. It should be noted that the PDI is in charge of the Interpol Santiago office, which is responsible for facilitating police cooperation beyond the national territory, while assisting and helping all police units, government and judicial authorities, and services that aim to prevent or combat crime. In the last two years the Interpol office issued an average of 1,088 police reports. Below, the number of international couriers received and transmitted from 2016 to September 2019 by the Interpol National Communications Office in Santiago, Chile, is provided:

**Table 8.11. Exchanged through INTERPOL**

OCN-INTERPOL Messaging	2016	2017	2018	2019
Transmitted	9,988	10,593	7,779	3,337

647. Being part of these networks has allowed it to participate in at least 10 joint operations with its counterparts abroad in cases of ML and predicate offences, achieving the seizure of more than 1,500 kilograms of cocaine and cannabis, firearms, cash, cars, among others, as well as the capture of 49 members of different criminal organisations. Among the countries with which joint working groups have been set up, the following can be mentioned: Argentina, Australia, Colombia, Ecuador, Spain, USA, and Peru.

648. The human trafficking investigation brigade has carried out joint operations through the INTERCOP or International Cooperation Program in Airports, ISON Network, Migrant Smuggling and HTEG Network, whose objective is to promote and strengthen cooperation in criminal investigation in the fight against transnational organised crime and related crimes.

649. Carabineros actively participates in international working groups for which it has signed 21 international cooperation agreements, it is attached to other police forces and maintains 10 police attaché offices with seats in the embassies or consulates of Argentina, Bolivia, Colombia, Ecuador, USA, Peru, Spain, France, England, and Italy. Their participation in the Working Meetings of Anti-Drug Police Chiefs and Directors of Latin America, called “Drug Trafficking in the Southern Cone,” is worth mentioning, where Working Group II is specifically focused on issues of international police cooperation, information transfer mechanisms, and joint transnational operations, which has facilitated joint operations with foreign counterparts.

650. As a result of these two operations there were more than 51 people arrested, as well as a significant amount of real and personal property seized.

**Table 8.12. Other Joint International Operations - Carabineros de Chile**

Year	PARTICIPATING COUNTRIES	
	PARTICIPATING COUNTRIES	ARRESTS

<b>2017</b>	Chile / Argentina / Bolivia	83
<b>2017</b>	Netherlands / Chile	1 (Chilean)
<b>2017</b>	Colombia / Ecuador / Peru / Chile	4 (Colombian)
<b>2018</b>	Italy / Chile	4 (Italians)
<b>2018</b>	Australia / Chile	4 (Colombian)

651. The SP and the CMF, in their capacity as financial supervisors, have the power to exchange information with other jurisdictions, both through the signing of MoUs and through spontaneous requests. The SP has signed 21 international cooperation agreements and participates in different international organisations: AIOS, IOPS, OIPSS, and the OIS. The CMF, on the other hand, participates in the OECD, IOSCO, AIAS, ASSAL, and IIMV. In addition, it has signed several international cooperation agreements in the areas of banks (11), insurance (2) and securities (26). In addition, 7 agreements with the Pacific Alliance and 3 multilateral agreements have been signed in the areas of insurance and securities.

652. In the period between 2015–2019, the CMF securities/insurance has carried out 9 information requests and 5 spontaneous cooperations. These exchanges have been generated between 20 countries: Luxembourg, Colombia, England, Spain, Dominican Republic, Italy, Mauritius, Uruguay, Malaysia, Netherlands, Canada, Brazil, Argentina, Australia, Bolivia, Peru, Cayman Islands, France, Portugal, and China.

653. The UAF, in its capacity as a supervisory body, also has powers for the exchange of information under the AML/CFT Law.

654. The SCJ is another institution actively engaged in the exchange of information with other countries, specifically requesting information regarding persons requesting permission to operate a casino. In 2014, it sent two official letters: One to INTERPOL and the other to the FBI, requesting information on natural and legal persons associated with the corporate structure and ownership of the applicant companies. In 2017, it sent 7 information requests to Colombia, Argentina, Panama, Uruguay, Republic of South Africa, Republic of Botswana, and Peru. Likewise, it has signed an agreement with the Bolivian Authority for Social Control and Supervision of Gambling (AJ) as a mechanism for coordination, cooperation, collaboration, and advice in this area.

655. The MINREL has signed cooperation agreements in the fight against Terrorism, Organised Crime and Drug Trafficking with Italy, cooperation agreement in the fight against International Terrorism, International Organised Criminal Activity and Trafficking in Narcotics, Psychotropic and Radioactive Substances with the Czech Republic, and the Action Plan Against Organised Crime and Terrorism with Colombia.

656. Chile is part of multiple international networks, through which the competent authorities request other forms of international cooperation for AML/CFT purposes, in an effective and timely manner.

*Granting other forms of international cooperation for AML/CFT purposes.*

657. The UAF signed 42 memoranda of understanding with its foreign counterparts. It is also part of the Egmont Group and provides financial information to its foreign counterparts through the

Egmont Secure Network. In the period between 2015 and 2019, the UAF has registered a total of 201 information requests from 54 countries.

**Table 8.13. Requests answered by the UAF (2015–2019)**

Year	Requests Received	Average Response Time of Requests Received
2015	44	31 days
2016	55	23 days
2017	42	23 days
2018	34	17 days
2019	26	28 days
<b>Total</b>	<b>201</b>	<b>24 days</b>

658. The UAF has also provided technical assistance to its counterparts in other countries in the region.

659. UCIEX, provides cooperation through the different international mechanisms it is part of, in the period between 2015–2019 it received 798 passive information requests for international criminal assistance of an informal nature.

660. The PDI, through the OCN Interpol is responsible for facilitating police cooperation beyond the borders of the national territory, and it also shares information through the RRAG. Similarly, the PDI works jointly with other jurisdictions on ML and ML predicate offences.

**Table 8.14. Requests received by the PDI from the RRAG**

No.	Country	Year					Total
		2015	2016	2017	2018	2019	
1	Argentina	3	8	8	1	2	22
2	Bolivia	1				2	3
3	Spain					1	1
5	Cuba					1	1
7	Colombia	6	2	2	2		12
10	Ecuador	1			1		2
13	France			1			1
14	Costa Rica			1			1
16	Brazil			1			1
TOTAL		11	10	13	4	6	44

**Table 8.15. Interpol Messaging (received)**

OCN-INTERPOL Messaging	2016	2017	2018	2019
Received	13,585	13,840	13,694	9,289

**Table 8.16. Joint operations of the PDI with other jurisdictions**

Year	Countries	Cases	Arrests
2016	Peru	2	4
2017	Peru, Ecuador	2	4
2018	Peru, Ecuador, United States, Argentina	4	27
2019	Peru, Ecuador, Colombia, Spain, Australia	4	17

661. For its part, the National Customs Service has agreements and protocols for mutual assistance in customs matters contained in the International Agreements signed for Cooperation and Assistance with different countries, which allows it to exchange information with its counterparts, either by requesting or providing information. Between 2015 and 2019, it exchanged information with 45 countries, receiving 154 queries and making 80 information requests.

662. DICREP generates information exchanges with other jurisdictions, as in the case of the Information Exchange with the Republic of Honduras.

**Box No. 11. DICREP relevant case**

The DICREP participated in the asset execution of a ML case involving money from corruption crimes committed in Honduras. As of September 2019, approximately USD 135,950 have been transferred to the Republic of Honduras. In accordance with the provisions of DICREP Exempt Resolution No. 264 of 2019 which authorises the transfer of the funds from the auctions, a total of USD 16,733 was transferred to Honduras.

663. In the period between 2015–2019, CMF Securities and Insurance received 21 information requests from its counterparts in Colombia, Spain, France, Netherlands, Italy, Luxembourg, Malaysia, Peru, Dominican Republic, and the United Kingdom, which have been channelled through the international area and answered in full. In turn, CMF Banks has exchanged information with 6 countries, including Brazil, Argentina, Colombia, USA, Canada, and China. Additionally, at the level of spontaneous cooperation, CMF Securities and Insurance has sent 5 reports to Canada, Argentina, Portugal, China, and the United Kingdom.

664. In the period between 2014–2015, CMF Insurance-Securities has received 21 requests from its counterparts abroad and has made 9 requests. CMF Banks received 9 requests and made 5.

**Table 8.17. Cooperation Requests in the framework of CMF - Bank MoUs**

Country	Years				
	2015	2016	2017	2018	2019
Brazil	2	1	1	1	1
Argentina	-	-	1	-	-
Colombia	1	-	-	-	-
USA	-	-	1	1	-
Canada	-	-	-	1	-
China	-	-	-	1	-
Total	3	1	3	4	1

665. It is evident that the various institutions that are part of the country’s AML/CFT system use a variety of mechanisms to provide international cooperation for AML/CFT purposes in a

constructive and timely manner, as expressed by the Global Network countries that provided feedback in this regard.

*International exchange of basic and beneficial ownership information on legal persons and arrangements*

666. The information on the types of legal persons and their incorporation is published and disseminated in different public websites, available to any member of the audience, including national and foreign authorities; therefore, such information can be shared with foreign authorities.

667. In relation to BO information, authorities indicated that they could identify particular cases where competent foreign authorities requested BO information. On this regard, upon the requests by foreign FIUs on the Egmont Secure Web in relation to a LP, the UAF provides, among other data, commercial and corporate information such as: (i) date of commencement of activities before the SII, (ii) economic activities registered with the SII, (iii) names of natural persons who represent the company before the SII, (iv) month and year of the latest stamps of tax documents, (v) month and year of incorporation, partners and their participation in the social equity, and (vi) names of natural persons appointed as administrators.

668. During the 2015–2019 period, the UAF received 201 requests through the Egmont Network, and information was requested on 414 LPs. In the case of the SII, this information is provided under the framework of the OECD convention as a member to the “Joint International Taskforce on Shared Intelligence and Collaboration,” as mentioned in IO.2.3.

669. Additionally, in terms of MLA, it has addressed 56 requests and has made 63 requests in terms of BO in the 2016–2019 period.

**Table 8.18 MLA on BO matters**

Type of requirement	2016	2017	2018	2019	TOTAL
Active Req.	43	5	11	4	63
Pasivo Req.	5	11	18	22	56
<b>Total</b>	<b>48</b>	<b>16</b>	<b>29</b>	<b>26</b>	<b>119</b>

670. In general, the country has provided cooperation and has responded to foreign requests of basic and BO information of legal persons and arrangements that is available in the internal and external databases. However, the issues identified above in relation to IO.5 regarding the availability of BO information may limit the country’s ability to respond in a timely manner to specific international cooperation requests for this type of information.

*Conclusions on Immediate Outcome 2*

671. Chile offers mutual legal assistance and extradition in a constructive and timely manner. Feedback from the FATF Global Network on the provision of MLA by Chile showed a positive trend. Moreover, it requests MLA to pursue ML, TF, and predicate offences associated with transnational elements.

672. The information exchange procedure is duly regulated, and the UAF actively participates in the performance of ML/TF information requests, and in their response. There is a quite developed cooperation between law enforcement authorities and their foreign counterparts. Successful international cooperation cases have been reported, generally in line with the country's risk profile; assets have been shared. These elements prove that core issues met to a good extent.

673. However, the deficiencies identified in IO.5 on BO information may have an impact on the provision of international cooperation in this area. Opportunities for improvement are detected in the formalisation of procedures to prioritise and execute international cooperation in authorities other than the MP and the UAF. However, it is considered that the improvements needed are of a moderate nature.

674. Therefore, it is concluded that the Republic of Chile shows a **substantial level of effectiveness in Immediate Outcome 2.**

## TECHNICAL COMPLIANCE ANNEX

CT1. This annex provides a detailed analysis of the level of compliance with the FATF 40 Recommendations in their numerological order. It does not include descriptive text on the country's situation or risks, and it is limited to the analysis of the technical criteria for each Recommendation. It should be read together with the Mutual Evaluation Report.

CT2. Where both the FATF requirements and national laws or regulations remain the same, this report refers to the analysis conducted as part of the previous 2010 Mutual Evaluation. This report is available at the following link: <https://www.gafilat.org/index.php/es/biblioteca-virtual/miembros/chile/evaluaciones-mutuas-3/90-chile-3ra-ronda-2010/file>

### *Recommendation 1 – Assessing Risks and Applying a Risk-Based Approach*

CT3. *Criterion 1.1* – Chile has a 2017 NRA, which was developed with its own methodology adjusted to the country's physiognomy, and which makes it possible to identify, measure, and evaluate national ML/TF risks. Through the assessment of threats and vulnerabilities detected, nine risks were determined and classified using an assessment scale based on their probability of occurrence.

CT4. The NRA determined 4 risks associated with drug trafficking, 3 of which are considered high and 1 very high. Also considered to bear high risks are corruption, human trafficking, and migrant smuggling. Then there are the medium, low, and very low risk levels related to smuggling offences, the Banking and Securities Market Act, intellectual property, and smuggling of metals illegally exploited in other jurisdictions. With regard to TF, the NRA specifies that while no TF activities have been detected in Chile, given the country's open economy, the risk of TF is medium level. The NRA is sufficiently broad to reflect most of the country's risks. Notwithstanding the above, fraud is not identified as a ML risk (although this risk was subsequently addressed in reports on typologies and red flags), despite its high incidence and impact on the system, and the scope of certain vulnerabilities associated with the lack of coverage of some DNFBPs was not addressed.

CT5. In addition to the NRA, Chile has developed sectoral risk assessments (SRAs). In particular, the UAF carried out a report on legal persons and arrangements (2018), a report on risk analysis of the main aspects of vulnerability with regard to misuse of NPOs for TF, a ML/TF risk study of users in free trade zones, and sectoral studies of ML/TF risk characterisation and vulnerabilities of the following sectors: Notaries (2013), stock brokers (2014), exchange offices (2014), and real estate management companies (2015). The UAF regularly publishes the "Report on Typologies and Red Flags of Money Laundering in Chile." These studies, together with the UAF's sectoral risk matrix of ML/TF/PF for RBA supervision by the UAF, complement the results of the NRA and the identification of ML/TF risks.

CT6. *Criterion 1.2* – The country has a body in charge of coordinating actions in the area of ML/TF risk assessment. Decree 1724/2016 created the Intersectoral Advisory Committee to Prevent and Combat ML/TF, which institutionalises the National AML/CFT System, coordinated by the UAF. The Committee, called the Intersectoral Board to Prevent and Combat ML/TF, is responsible for advising the President of the Republic on the coordination of the actions, plans, and programmes of the various institutional actors in the area of prevention, detection, and prosecution of ML/TF. In addition, in 2017, Chile adopted the National Strategy and its 2018–2020 Action Plan, in which strategic lines 2, 4 and 5 provide for relevant elements in terms of risk assessment: Generate sectoral

approaches to the risks of the most relevant industries in terms of probability and impact of ML/TF risks (action 2. 2.1); generate inputs, practical guides, and support material to better implement the RBA by RIs in compliance with AML/CFT regulations (action 4.1.2); and strengthen institutional coordination and cooperation through the creation of working groups specialised in strategic matters (5.1.1).

CT7. *Criterion 1.3* – Chile’s NRA dates from March 2017 and is therefore considered to be up to date. In addition, the country has ongoing work processes within the framework of the Intersectoral Board, where the institutions that make up the National AML/CFT System participate and which provides a framework for considering the updating of the NRA.

CT8. *Criterion 1.4* – Chile has mechanisms in place to disseminate the outcomes of the NRA and SRAs. In this regard, the UAF disseminates these instruments by means of training events, press releases, official notifications, working groups, and publication on the institutional website.

CT9. *Criterion 1.5* – In December 2017, the “National Strategy and its 2018–2020 Action Plan” was designed, which had as its main input the results of the 2017 NRA, so that compliance with the plan would enable the National AML/CFT System to mitigate the identified ML/TF risks. The Action Plan has 6 strategic lines, 45 actions, and 127 specific commitments.

CT10. The level of compliance with the commitments of the 2018–2020 Action Plan is monitored by the UAF, which acts as the Technical Secretariat, and is communicated to the competent authorities by means of an indicators control panel. Although the Action Plan was developed on the basis of an understanding of the risks of ML/TF and has enabled resources to be allocated to progress with various actions in the strategic lines (e.g. implementation of guidelines for asset investigation in investigations, training, feedback, etc.), there are areas where resources are not applied sufficiently, particularly in relation to the lines linked to AML/CFT supervision.

CT11. *Criterion 1.6* – Some aspects of FATF Recommendations are not applied to certain sectors. The most significant exceptions are lawyers, accountants, dealers in precious metals and stones, and corporate service providers who are not subject to AML/CFT regulations. In addition, DNFBPs are not required to comply with BO obligations. However, the exceptions to the application of the FATF Recommendations are not based on the existence of a proven low ML/TF risk; nor do they occur in strictly limited and justified circumstances, as provided in sub-criterion (a).

CT12. *Criterion 1.7* – Article 1 (5) of UAF Circular 59 of May 2019 provides that when ML/TF risks are determined to be high, RIs must apply enhanced CDD measures, and the standard exemplifies various measures that can be adopted. In addition, paragraph 4 of the same rule provides for the obligation of RIs to perform ongoing CDD in accordance with the customer’s risk profile. Notwithstanding the above, these measures are not applicable to lawyers, accountants, dealers in precious metals and stones, and corporate service providers.

CT13. *Criterion 1.8* – UAF Circular 59, paragraph 5(b), stipulates that when ML/TF risks are determined to be low, simplified CDD measures may be applied, except when there is suspicion of ML/TF with regard to a customer. However, the regulation does not clearly provide that the determination of low ML/TF risks must be consistent with the country’s risk assessment, and these measures do not apply to lawyers, accountants, dealers in precious metals and stones, and corporate service providers.

CT14. *Criterion 1.9* – Monitoring and supervision of RIs in terms of prevention of ML/TF is under the sphere of the UAF (See R.26 and R.28). However, lawyers, accountants, dealers in precious metals and stones, and corporate service providers are not subject to obligations in this field.

CT15. *Criterion 1.10* – RIs are not required to identify, assess, and understand their ML/TF risks in the terms provided for in paragraphs (a) to (d) of the criterion.

CT16. *Criterion 1.11* – (a) Article VI.I of UAF Circular 49 provides for the appointment of a compliance officer, who shall be responsible for implementing an AML/CFT system, which must include at least the following: Appointment of a responsible officer, a handbook on prevention, and training of staff. The handbook should contain, at least the following: Know-your-customer policies and procedures; detection procedures and STRs; procedure for timely and confidential reporting of STRs, persons on UN or non-cooperative countries' lists; and ethical standards and staff behaviour related to the prevention of ML/TF. However, there are no provisions requiring them to establish controls and procedures approved by senior management that would enable them to manage and mitigate identified risks. Similarly, provisions on this criterion do not appear to apply to lawyers, accountants, dealers in precious metals and stones, and corporate service providers.

(b) Article 1 (4) of UAF Circular 59 provides that RIs must apply ongoing CDD processes commensurate with their customers' ML/TF risk profile. However, it does not expressly provide for the obligation to monitor the implementation of controls which would enable them to improve them, if necessary.

(c) Where ML/TF risks are determined to be high (in customers, products, services or otherwise), RIs should apply enhanced CDD. (UAF Circular 59, Title III, 5(a)). They must also perform ongoing CDD in order to detect significant changes in both their customers' profiles and operations.

CT17. *Criterion 1.12* – UAF Circular 59 paragraph 5 provides that RIs may apply simplified measures when risks are determined to be low. Furthermore, the regulation states that simplified CDD measures are not permitted when there is suspicion of ML/TF with regard to a customer (Title III, 5(b)). In addition, it establishes that the CDD procedure should always be applied when there is suspicion of ML/TF, regardless of the exemptions and thresholds defined (Title III, 1(c)).

### *Weighting and Conclusion*

CT18. Chile has an NRA, SRAs and other studies and elements related to the identification and assessment of ML/TF risks, which mostly cover the elements required by the Recommendation. There are some deficiencies in relation to criteria 1.5, 1.6, 1.8, 1.9, 1.10 and 1.11, but these are minor deficiencies in relation to the context of the country's actions and measures in this field. **Recommendation 1 is rated Largely Compliant.**

### *Recommendation 2 – National Cooperation and Coordination*

CT19. In its 2008 Third Round MER, Chile was rated LC for former R.31. At that time, deficiencies pointed out were the need of a more accurate design of the system's coordination mechanisms, the need to strengthen the coordination between Carabineros and PDI in the area of ML/TF, and to enhance coordination between supervisory bodies, especially the Superintendence of Banks and the Superintendence of Securities and Insurance.

CT20. *Criterion 2.1* – Chile has national policies that take into account and review identified risks. The country has approved two national AML/CFT strategies and action plans as a result of a

coordinated work between institutions. With regard to the regular evaluation of policies, Article 4 of the ENA's Inter-institutional Agreement provides that the parties shall meet in the committees or working groups to evaluate qualitatively the implementation of the Action Plan, with the frequency established for each of them or at the request of the UAF, and that the content of the actions in each of its areas shall be updated, where appropriate, on the date of expiry of the Plan for the following period.

CT21. *Criterion 2.2* – Decree 1724/2016 creates the Intersectoral Advisory Committee to Prevent and Combat ML/TF, whose mission is to advise on the coordination of the actions, plans, and programmes of the different institutional actors in the area of prevention, detection, and prosecution of ML/TF. The Committee will also carry out advisory functions with the aim of helping in the coordination between public agents and representatives of the financial and economic sectors, as well as with representatives of civil society, thus trying to create the conditions that allow progress in the implementation of actions that contribute to the prevention, detection and prosecution of ML/TF, which member institutions have committed to in the Action Plan of the National Strategy.

CT22. *Criterion 2.3* – The Intersectoral Advisory Committee to Prevent and Combat ML/TF is responsible for coordinating actions among public agents and representatives of the financial and economic sectors, as well as with representatives of civil society. Similarly, through the inter-institutional agreements for the implementation of both ENAs, the 16 institutions<sup>51</sup> plus the BCCh coordinate with each other for the implementation of the actions set out in the Action Plan. This allows authorities to coordinate and exchange information with each other at the national level in terms of the development and implementation of AML/CFT policies and activities. In addition, the UAF has 24 agreements in force with public institutions, including the BCCh, Serviu Metropolitano, MJDH, PDI, ANI, SRCeI, MP, SNA, among others.

CT23. *Criterion 2.4* – Chile has an Inter-Ministerial Committee for the implementation and enforcement of UNSCRs, which was created by Supreme Decree No. 14 of the Ministry of Foreign Affairs in 2012. The Committee's purpose is to advise the Ministries and to serve as a coordinating body for the implementation and compliance with the set of recommendations and measures established in the UNSCRs, which covers all aspects of the PF. The Committee will be composed of representatives of the following Ministries: Ministry of the Interior and Public Security, Ministry of Foreign Affairs, Ministry of National Defence, Ministry of Finance, Ministry Secretariat General of the Presidency and Ministry of Justice. Likewise, in accordance with the regulatory framework, the Committee is intended to serve as a coordination body between the ministries for the implementation and compliance with the set of recommendations and measures of the UNSC, and all other matters aimed at cooperation and coordination among ministries for the enforcement and compliance with UNSCRs. In addition, the Subcommittee on UNSCR 1540 was set up within the framework of the aforementioned Committee, a body which addresses aspects relating to the implementation of said Resolution. Moreover, the action plan of the 2018/2020 ENA contains a working plan for PF, which is a mechanism for coordinating measures in this area.

CT24. *Criterion 2.5* – Competent authorities for the prevention and combat of ML/TF have cooperation and coordination mechanisms in this area, which establish measures of confidentiality and use of information and they should ensure compliance with Law 19.628 on the protection of private life.

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<sup>51</sup> CGR, MP, Ministry of the Interior, Ministry of Foreign Affairs, Ministry of Health, Carabineros de Chile, PDI, General Directorate of Maritime Territory and Merchant Navy, SII, Financial Market Commission, SBIF, SCJ, SNA, UAF and Directorate of Collateral Credit.

### *Weighting and Conclusion*

CT25. All criteria are met. **Recommendation 2 is rated Compliant.**

### ***Recommendation 3 – Money laundering offence***

CT26. In its Third Round MER in 2008, Chile was rated LC for former R.1 and R.2, where the main deficiency was that the list of predicate offences was limited to an exhaustive list of offences that were not in line with the crime categories required by the Standard.

CT27. *Criterion 3.1* – Articles 27 and 28 of the AML/CFT Law determine the commission of the offence of ML as follows: “Article 27 – A minimum to medium term of imprisonment and a fine of between two hundred and one thousand monthly tax units shall be imposed upon:

(a) *Whoever conceals or disguises in any way the illicit origin of certain assets, knowing that they proceed, directly or indirectly, from the perpetration of acts constituting one of the crimes contemplated in Law 20.000, which punishes the illicit traffic of narcotics and psychotropic substances; in Law 18.314, which determines terrorist behaviours and establishes their penalty; in Article 10 of Law 17.798, on arms control; in Title XI of Law 18.045, on the securities market; in Title XVII of decree with force of law No. 3, of the Ministry of Finance, of 1997, General Law on Banks; in Article 168, in connection with Article 178, No. 1, both of decree with force of law No. 30, of the Ministry of Finance, of 2005, which approves the revised, coordinated, and systematized text of decree with force of law No. 213, of the Ministry of Finance, of 1953, on the Customs Ordinance; in the second paragraph of Article 81 of Law 17.336, on intellectual property; in Articles 59 and 64 of Law 18.840, constitutional organic law of the Central Bank of Chile; in the third paragraph of number 4 of article 97 of the Tax Code; in paragraphs 4, 5, 6, 9 and 9 bis of Title V and 10 of Title VI, all of Book Two of the Criminal Code; in Articles 141, 142, 366 quinquies, 367, 374 bis, 411 bis, 411 ter, 411 quater, 411 quinquies, and Articles 468 and 470, numbers 1, 8, and 11, in relation to the final paragraph of Article 467 of the Criminal Code, or, being aware of such origin, conceal or disguise these goods.*

(b) *Whoever acquires, possesses, holds, or uses the aforementioned goods, for profit, when at the moment of receiving them is aware of their illicit origin. The same punishment shall be applied to the behaviour described in this article if the property comes from an act carried out abroad, which is punishable where it is committed and in Chile constitutes one of the crimes indicated in paragraph (a) above.*

*For the purposes of this article, property is understood to be objects of any kind that are valuable in money, tangible or intangible, movable, or immovable, as well as the documents or legal instruments that prove ownership or other rights over them.*

*If the perpetrator of any of the behaviours described in subparagraphs (a) or (b) was not aware of the origin of the property due to inexcusable negligence, the penalty of imprisonment corresponding to the first or final paragraph of this article shall be reduced by two degrees.*

*The fact that the origin of the property in question is a typical and illegal event as referred to in point (a) of the first paragraph shall not require prior conviction, and may be established in the same process as that used to judge the crime defined in this Article.*

*If the person who participated as a perpetrator or accomplice in the event that gave rise to such property also incurs in the criminal figure referred to in this article, he/she shall also be punished in accordance with the latter.*

*In any event, the term of imprisonment applicable in the cases referred to in paragraphs (a) and (b) may not exceed the greater penalty prescribed by law for the perpetrator of the crime or simple*

*offence from which the property covered by the offence referred to in this Article derives, without prejudice to the fines and additional penalties prescribed by law.*

*“Article 28.- Those who associate or organise themselves with the aim of carrying out some of the behaviours described in the previous article shall be sanctioned for this act alone, according to the rules that follow:*

*1.- With a medium term of imprisonment for those who finance, exercise command or direction, or plan the acts to be proposed, and who finance, exercise command or direction, or plan the acts to be proposed, and*

*2.- With a minimum level of imprisonment, to the person who supplies vehicles, weapons, ammunition, instruments, accommodation, shelter, meeting places, or collaborates in any other way to achieve the aims of the organisation.*

*Where the association has been formed through a legal person, the dissolution or cancellation of the legal personality shall also be imposed as an ancillary consequence of the penalty imposed on those individually responsible.”*

CT28. Based on the aforesaid, the criminalisation of ML covers most of the requirements established by the Vienna and Palermo Conventions. However, the criminal type does not specifically criminalise the conduct of conversion and transfer of property, but this is not a significant deficiency because case law shows that such actions have been repressed.<sup>52</sup>

CT29. *Criterion 3.2* – Pursuant to Article 27 of the AML/CFT Law, the ML offence covers most of the predicate offences required by the standard. However, the following crimes are not covered: Illicit traffic in stolen goods and other property; environmental crimes; murder and serious bodily injury; robbery or theft; extortion; and piracy.

CT30. *Criterion 3.3* – Chile does not apply the threshold criterion. In this regard, the regulations state that the offences that determine ML are only those contained in the list of Article 27 of the AML/CFT Law.

CT31. *Criterion 3.4* – Article 27 of the AML/CFT Law, in paragraph 4, defines the content of what is understood as property: “(...) objects of any kind that are valuable in money, tangible or intangible, movable or immovable, as well as the documents or legal instruments that prove ownership or other rights over them”. Likewise, this article takes into consideration that said property comes directly or indirectly from the perpetration of acts constituting any of the crimes that are considered ML predicate offences.

CT32. *Criterion 3.5* – Paragraph 6 of Article 27 of the AML/CFT Law indicates that the fact that the origin of the property in question is a typical and illegal act referred to in subparagraph (a) (list of predicate offences) shall not require a previous conviction, and may be established in the same process as that used to try the crime defined in that Article.

CT33. *Criterion 3.6* – In turn, subparagraph (b) of Article 27 of the AML/CFT Law provides for the application of the same penalty to the behaviours described in that Article if the property is the result of an act carried out abroad that is punishable in both the place where it was committed and in Chile, and that constitutes one of the offences set out in paragraph (a) of the Article (list of predicate offences).

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<sup>52</sup> The broad conducts established in the criminal type are used, such as concealment, dissimulation, mere possession and/or use.

CT34. *Criterion 3.7* – Article 27, paragraph 7 of the AML/CFT Law states that if it turns out that the person who participated as the author of or an accomplice to the act that originated such property also incurs in the criminal offence referred to in the article itself, he/she will also be punished pursuant to the law. In this sense, “self-laundering” is expressly sanctioned by the country’s legal framework.

CT35. *Criterion 3.8* – The AML/CFT law does not contain special evidentiary rules and therefore the evidentiary provisions of the Criminal Procedural Code (CPC) are fully applicable. The CPC enshrines the principle of freedom of evidence in Article 295, according to which all relevant facts and circumstances—including the required intent and knowledge—can be proven by any means produced and incorporated in accordance with the law. For its part, Article 297 of the Criminal Procedural Code establishes that the courts shall assess the evidence freely, but they may not contradict the principles of logic, the maxims of experience and scientifically established knowledge, enshrining a system of assessment of evidence based on sound judgment, which allows for the accreditation of the facts with direct or indirect evidence.

CT36. *Criterion 3.9* – The penalty for the offence of ML consists of imprisonment of at least 5 years and one day to 15 years, and a fine of 200 to 1,000 in Monthly Tax Unit (UTM) (approx. USD14,000 to 70,000).

CT37. The ML penalty, in abstract terms, is one of the highest penalties in the Chilean penal system (second only to the maximum term of imprisonment—15 to 20 years according to Article 56 of the Criminal Code—and simple and qualified life imprisonment according to the first degree of the scale No. 1 of Article 59 of the Criminal Code). However, the final paragraph of Article 27 provides for a quantitative limitation for its application, which states that the penalty imposed for ML may not exceed the penalty for the crime on which it is based. This provision impacts on the proportionality and dissuasiveness of the penalty applicable for the ML offence where the predicate offence has a low penalty.

CT38. *Criterion 3.10* – Article 1 of Law 20.393 establishes the applicability of criminal liability of legal persons for the crime of ML. Article 3 establishes the following liability criteria: i) that the offence was committed by a director (or a natural person under his/her direction or supervision) in his/her interest or for his/her benefit; and ii) that the offence was the result of a breach of the duties of direction and supervision. The applicable sanctions provided for are: Dissolution or cancellation of the legal personality; temporary or permanent prohibition to enter into acts and contracts with government bodies; partial or total loss of tax benefits or absolute prohibition to receive them for a certain period; fines in favour of the tax authorities, publication of an extract of the judgment in the Official Gazette, and confiscation. The penalty applicable to legal persons is without prejudice to that applicable to natural persons.

CT39. Likewise, Article 28 of the AML/CFT Law sanctions those who associate or organise themselves for the purpose of carrying out one of the behaviours set out in Article 27, while adding that if such an association has been formed through a LP, the dissolution or cancellation of the legal personality will also be imposed as an accessory consequence of the penalty imposed on the individuals responsible.

CT40. Notwithstanding the above, it should be noted that the duties of management and supervision, according to the third paragraph of Article 3 of Law 20.393, are considered fulfilled

when the LP has adopted and implemented an organisational, administrative, and supervisory model (prevention model) to prevent crimes such as these. In this sense, if the LP can prove that it has adopted this model, it would not be subject to criminal liability since one of the criteria for prosecution would not have been met and, therefore, it would not be subject to sanctions. Consequently, as the prevention model may be used as a defence against criminal liability for the commission of the offence of ML, the legislation does not fully cover the requirement for the criminal liability of the LP to be applied in accordance with the criterion.

CT41. *Criterion 3.11* – With respect to ancillary offences to ML, Article 28 of the AML/CFT Law provides for the association or organisation for the commission of any of the modalities described in Article 27. Likewise, Article 33 of the AML/CFT Law allows for the application of all the provisions of Law 20.000 for Articles 27 and 28 of the AML/CFT Law, in particular subparagraph (d) on the rules of perpetration of the offence and punishment of conspiracy. However, the inciting conducts are not fully applicable to ML in line with what is required, although when discovered, most of the cases imply a minor deficiency.

#### *Weighting and Conclusion*

CT42. Chile has a ML criminal type that covers most of the elements required by the Vienna and Palermo Conventions and the criteria of the Recommendation. However, there are certain deficiencies with regard to criteria 3.1, 3.2, 3.9 – 3.11, which does not prevent us from considering that most of the relevant aspects are covered by the criminalisation of the offence. **Recommendation 3 is rated Largely Compliant.**

#### *Recommendation 4 – Confiscation and provisional measures*

CT43. In Chile's Third Round MER, former Recommendation 3 was rated LC, considering that no rule was provided for allowing the confiscation of property of corresponding value, so that no confiscation measure could be applied to it, and no specific procedure was provided for in Chilean law to prevent or invalidate acts, contractual or otherwise, in which the persons involved knew or should have known that the ability of the authorities to recover the property subject to confiscation would be impaired as a result of such acts.

CT44. *Criterion 4.1* – Article 33 of the AML/CFT Law provides that all the provisions of Law 20.000 shall be applicable with respect to the offences established in Articles 27 and 28 of that law. In addition, Article 33 (c) provides for the possibility that, in the framework of criminal prosecution, precautionary measures and seizures may be ordered without prior communication to the affected party, objects susceptible to seizure and confiscation may be determined, as well as the destination of seized property or their proceeds. In addition, Art. 33 (d) of said AML/CFT Law refers, among others, to the origin of the confiscation, its scope, and the destination of the goods in reference to Law 20.000: Articles 40 (destination, disposal, and restitution of seized property), 45 (confiscation) and 46 (public auction procedure, disposal, destination of confiscated property) which specify and regulate the items referred to in detail. For its part, Article 36 of the AML/CFT Law also allows the proceeds of confiscated property to be used in whole or in part to prosecute the crime.

(a) Confiscation measures for property related to ML is one of the cases contemplated in Article 33 (d) of the AML/CFT Law, in relation to Article 45 of Law 20.000.

(b) Confiscation under Article 45 of Law 20.000 and in relation to Article 33 (d) of the AML/CFT Law is applicable to those assets that are the proceeds or instruments used, or intended to be used, for ML. In this regard, it is established that ... *“real estate, personal property such as motorised*

*land vehicles, ships and aircraft, money, bills of exchange and securities, and, in general, any other instrument that has served or has been used to commit any of the crimes punishable under this law shall be confiscated; the effects that result from them and the profits that they may have generated, regardless of their legal nature, or the transformations that they may have undergone, as well as all those properties provided or acquired by third parties in the knowledge of their purpose or origin.”*

(c) According to the analysis of the previous criterion, property that is the product of, or was used in, or was intended to be used to finance terrorism, terrorist acts or terrorist organisations is also subject to confiscation in accordance with Article 45 of Law 20.000 and in relation to Article 33 (d) of the AML/CFT Law.

(d) Article 37 of the AML/CFT Law provides that, in the event of a conviction, and if no property related to the crime has been seized or safeguarded, but only property of equivalent value, the court with jurisdiction in criminal matters may, in the same sentence, order the confiscation of the seized or safeguarded property.

CT45. *Criterion 4.2* – (a) Chile has various measures in place for identifying and tracing property subject to confiscation. For example, the country’s authorities indicated that, in the case of real estate in the name of a given person, the MP has an interconnection system with the SII, which makes it possible to identify all the real estate registered in the name of a natural or legal person throughout the country, and it is also possible to obtain information on previously registered property that has been transferred. In addition, Article 180 of the CPC allows the police to be specifically instructed to go to a notary’s office when the sale of a property has been reduced to a public deed, in order to find out the conditions of acquisition, the form of payment, the parties involved in the purchase, or other relevant information, and to directly notify the notary’s office for this purpose. The specific regulation of the AML/CFT Law provides in Article 33 (a) the possibility of carrying out various actions within the framework of the investigation, such as the collaboration of State agencies, the power of the MP to carry out actions outside national territory, this with or without prior knowledge of the affected party, international cooperation in general, and the lifting of bank secrecy. By virtue of these measures and the general regulation enshrined in the CPC, it is possible, within the framework of the investigation, to carry out property investigations with the support and assistance of other state bodies so that it is possible to identify and trace the property subject to confiscation. It should be noted that the particular valuation of property subject to confiscation is determined in accordance with the general rules of the public auction of property subject to confiscation, which is regulated by Decree 12 of the Ministry of Labour and Social Security of 2010, which provides for an appraisal and valuation mechanism.

(b) Article 32 of the AML/CFT Law provides for the possibility that the MP may request the JG to decree any real precautionary measure that may be necessary to avoid the use, exploitation, benefit or destination of any kind of goods, securities or money proceeding from ML/TF. Likewise, Article 157 of the CPC provides for the origin and granting of real precautionary measures for the purpose of ensuring the outcome of the action. In addition, in accordance with the analysis made in criterion 4.1 (d), Article 37 of the AML/CFT Law provides for the possibility of seizing or applying any other precautionary measure for an equivalent value to the proceeds of crime. In addition, Article 38 of the AML/CFT Law allows the UAF to request a Minister of the CA of Santiago to adopt one or more measures necessary to prevent the use, exploitation, benefit or allocation of any type of property, securities or money that is involved in the act, transaction, or operation in question, without prior notice to the person concerned and for a specific period of time, when it has evidence that the natural or legal persons listed in accordance with the relevant UNSCRs intend to carry out an act, transaction, or financial operation. The measures that may be ordered shall be understood to

include the prohibition of the transfer, conversion, disposal, or movement of funds or other assets during the term of the measure.

(c) The general rules of criminal procedure do not directly refer to the possibility that operations tending to dissipate the property and species of interest for the effects of securing assets for criminal prosecution may be annulled or revoked by a judge within the framework of a criminal prosecution. Any possibility of annulling such acts must be discussed in civil proceedings on the grounds of their unlawful purpose or cause.

(d) Article 33 (a) of the AML/CFT Law sets forth the investigative measures applicable, among other offences, to ML/TF, which include: Collaboration of State bodies; the power of the MP to carry out actions outside national territory or without prior knowledge of the affected party and international cooperation in general; the lifting of bank secrecy; the free provision of background information required during the investigation; special investigation techniques, such as controlled delivery or operation, the use of undercover agents and informants, the tapping of communications and other technical means; the protection of persons who have collaborated with the investigation, and the possibility of testifying in advance.

CT46. *Criterion 4.3* – Art. 189 of the CPC, which regulates Claims or Third Parties' Claims that are filed before a JG, allows an affected third party to appear as such to have their rights over the property subject to seizure declared, to be returned at the end of the procedure.

CT47. *Criterion 4.4* – Art. 469 of the CPC regulates the destination of confiscated property and establishes, if necessary, the power to order their destruction, which will be carried out under the responsibility of the court administrator, unless it is entrusted to another public body. In any case, the execution of the measure will be registered. In turn, it is stated that other confiscated products will be made available to the Directorate General of Collateral Credit so that it may proceed to dispose of them in a public auction, or to destroy them if they are worthless.

CT48. For its part, Article 470 of the CPC refers to the statute of withheld but not confiscated property, where a distinction is made between property held by the court and property held by the MP. In the first case, if they are not claimed within 6 months by their owner, they will be auctioned off by the court and the remaining balance will go to the Administrative Corporation of the Judiciary. The property held by the MP, on the other hand, if not claimed within 6 months by its owner, must be sent to the DGCP so that it can proceed just as with confiscated property.

CT49. In the specific cases of the AML/CFT Law, Article 36 provides that the property seized, or the proceeds of the confiscated property may be used for the prosecution of the crime under the terms of Articles 40 and 46 of Law 20.000. Likewise, Article 46 mentioned above, indicates that the property will be auctioned off by the DGCP and the proceeds will be given to a special fund that will be maintained by SENDA, with the aim of financing programs for the prevention of drug abuse, treatment and rehabilitation of persons affected by drug addiction.

#### *Weighting and Conclusion*

CT50. The legislation on confiscation covers almost all the elements required by the criterion, with the exception of one sub-criterion of criterion 4.2. **Recommendation 4 is rated Largely Compliant.**

#### *Recommendation 5 – Terrorist financing offence*

CT51. In the Third Round of Evaluations' MER, Chile was rated LC for the then SR. II, where the main deficiency was that not all the acts listed in the conventions that are part of the annex to Article 2 of the International Convention for the Suppression of the Financing of Terrorism were found.

CT52. *Criterion 5.1* – Law 18.314, which defines terrorist behaviours and sets forth their penalties, in Article 8 criminalises TF as follows: “*Anyone who by any means, directly or indirectly, requests, collects or provides funds for the purpose of being used in the commission of any of the terrorist offences listed in Article 2 shall be punished with the penalty of medium-term imprisonment in the medium degree to long-term imprisonment in the minimum degree, unless by virtue of the provision of funds he/she is held liable for a specific offence, in which case he/she shall be punished under the latter title, without prejudice to the provisions of Article 294bis of the Criminal Code.*”

CT53. Article 1 of the Law provides that the offences referred to in Article 2 shall constitute terrorist offences when the act is committed with the aim of producing in the population or in a part of it a justified fear of being the victim of such offences, either because of the nature and effects of the means employed, or because of evidence that it is part of a premeditated plan to attack a particular category or group of persons, or because it is committed to undermine or inhibit resolutions of the authority or to impose demands on it.

CT54. Meanwhile, Article 2 of the Law identifies the acts that will be considered as terrorism, namely: 1. Homicide punished in Article 391; injuries established in Articles 395, 396, 397 and 398; kidnapping and abduction of minors punished in Articles 141 and 142; delivery of explosive letters or parcels in Article 403 bis; arson and destruction described in Articles 474, 475, 476 and 480; and offences against public health in Articles 313 (d), 315 and 316, all of the Criminal Code. Also, the derailment offence described in articles 105, 106, 107 and 108 of the General Railway Law. 2. Seizing or attempting to seize a vessel, Article 1 (2) (a) and (b) aircraft, railway, bus, or other means of public transport in service, or carrying out acts that endanger the life, physical integrity, or health of its passengers or crew members. 3. Attacks against the life or physical integrity of the Head of State or of another political, judicial, military, police or religious authority, or of internationally protected persons, by reason of their positions. 4. Placing, sending, activating, throwing, detonating, or firing bombs or explosive or incendiary devices of any kind, weapons or artifacts of great destructive power or toxic, corrosive or infectious effects. 5. Conspiracy for the purpose of committing offences which must be classified as terrorist offences in accordance with the foregoing numbers and with Article 1. Most of the elements of the CFT Convention are covered. However, certain acts contemplated in the Annexes to the Convention are not covered by the regulatory framework.

CT55. *Criterion 5.2* – Article 8 of Law 18.314 punishes anyone who “by any means, directly or indirectly, requests, collects or provides funds to be used in the commission of any of the terrorist offences referred to in Article 2.” Thus, subparagraph (a) of the criterion is met. With regard to subparagraph (b) of the criterion, it should be pointed out that, among the terrorist offences established in Article 2, “conspiracy for the purpose of committing offences which must be classified as terrorist offences” (subsection 5) is provided for. In the Chilean legal system, the definition of conspiracy is that used to punish criminal organisations. In this context, the offence of financing in Article 8 is linked to any of the terrorist offences established in Article 2, including conspiracy. Therefore, an act of mere financing of a terrorist organisation is covered by the criminal law. Notwithstanding the above, the offence does not explicitly cover the act of mere financing of an individual terrorist.

CT56. *Criterion 5.2 bis* – Article 8 of Law 18.314 punishes the collection or provision of funds for the purpose of committing the terrorist acts defined in Article 2 of the same Law. While Article 8 of the CFT Law may cover some behaviours, such as the financing of travel to participate in or perpetrate terrorist acts, the legislation would not cover the financing of travel to plan or prepare the terrorist act. Similarly, the legislation does not cover the financing of travel of individuals to provide or receive terrorist training, since that act is not covered by the behaviour which, according to Articles 1 and 2 of the Law, constitutes a terrorist act.

CT57. *Criterion 5.3* – Article 8 of Law 18.314 applies to funds regardless of their origin. Thus, funds from legitimate and illegitimate sources are covered. The legislation does not explicitly refer to “other assets,” although the National Prosecutor’s Communication No. 83/2004 establishes that the word “funds” must be taken in a broad sense, and that it includes all kinds of property. In a similar sense, there is a history of parliamentary debate on the legislation, which indicates that the word “funds” can be considered as resources, in accordance with the definition of funds provided in the International CFT Convention. Moreover, the definition of “fund” provided by the Real Academia Española (Royal Spanish Academy), in its interpretations 7 and 23, also covers other goods and resources.

CT58. *Criterion 5.4* – With regard to subparagraph (a) of the criterion, the offence of TF refers to the fact that the funds are requested, collected or provided “for the purpose of being used” in the commission of a terrorist offence, but does not require that they have in fact been used for the performance or attempted performance of the act (Cfr. Art. 8 Law 18.314). Thus, subparagraph (a) of the criterion is addressed. However, with regard to subparagraph (b) of the criterion, the definition of the crime establishes a subjective element that requires that the behaviours be carried out with the purpose of being used in a terrorist offence, so that it envisages that there is a link with the respective terrorist act. Thus, subparagraph (b) is not covered by the legislation, except in cases where financing is given to a criminal association.

CT59. *Criterion 5.5* – With regard to the inference of knowledge and intent required for the commission of the offence, the evidentiary provisions of the CPC apply. The CPC enshrines the principle of freedom of evidence in Article 295, according to which all relevant facts and circumstances—including the required intent and knowledge—can be proven by any means produced and incorporated in accordance with the law. For its part, Article 297 of the Criminal Procedural Code establishes that “the courts shall assess the evidence freely, but they may not contradict the principles of logic, the maxims of experience and scientifically established knowledge,” enshrining a system of assessment of evidence based on sound judgment, which allows for the accreditation of the facts with direct or indirect evidence.

CT60. *Criterion 5.6* – In accordance with Article 8 of Law 18.314, TF is punished with the penalty of medium-term imprisonment in the medium degree to long-term imprisonment in the minimum degree in the case of the financier (541 days to 5 years and 1 day of imprisonment), unless it can be proved that the financier is part of the terrorist group, with the punishment changing according to the crime in question. In this regard, it is considered that the maximum penalty for TF does not comply with the proportionality and dissuasive nature required by this criterion.

CT61. *Criterion 5.7* – Law 20.393 sets forth the criminal liability of legal persons. Liability criteria are as follows: (i) That the offence was committed by a director (or a natural person under his/her direction or supervision) in his/her interest or for his/her benefit; and (ii) that the offence was the result of a breach of the duties of direction and supervision. Applicable penalties include dissolution

of the LP or cancellation of the legal personality, prohibition to celebrate agreements and contracts with state bodies, loss of tax benefits, and a fine in favour of the tax authorities. The penalty applicable to legal persons is without prejudice to that applicable to natural persons.

CT62. Notwithstanding the above, it should be noted that the duties of management and supervision, according to the third paragraph of Article 3 of Law 20.393, are considered fulfilled when the LP has adopted and implemented an organisational, administrative, and supervisory model (prevention model) to prevent crimes such as these. In this sense, if the LP can prove that it has adopted this model, it would not be subject to criminal liability since one of the criteria for prosecution would not have been met and, therefore, it would not be subject to sanctions. Consequently, as the prevention model may be used as a defence against criminal liability for the commission of the offence of ML, the legislation does not fully cover the requirement for the criminal liability of the LP to be applied in accordance with the criterion.

CT63. *Criterion 5.8* – (a) Article 7 of Law 18.314 indicates that the attempt to commit TF is punishable by the penalty imposed on the respective offence, reduced by one or two degrees.

(b) Article 16 of the CC provides for the punishment of connivance.

(c) For its part, as a general rule, Article 15 (2) of the CC punishes with the same penalty as that imposed on the perpetrator anyone who induces others to commit an offence. In this sense, this applies equally to the crime of TF in Article 8 of Law 18.314. However, it is not covered to consider as an offence the act of organising or directing others in the case of an attempt established in this criterion. As mentioned in subparagraph (a), Article 7 of Law 18.314 exceptionally sets forth conspiracy as an offence, punishing the conspirator with the penalty prescribed by law, reduced by two degrees.

(d) Finally, Law 18.314 provides for the punishment to the attempt according to the analysis of criterion 5.8 (a). However, it is not clear that the association referred to in Article 2 (5) of the Law is applicable to the commission of TF.

CT64. *Criterion 5.9* – TF is included in the list of ML predicate offences in accordance with Article 27 of the AML/CFT Law.

CT65. *Criterion 5.10* – The legislation provides for the possibility of investigating the accused persons related to a TF crime, regardless of the country where the terrorist or terrorist organisation is located, or where the terrorist act occurred or will occur. The standard does not distinguish by place of commission of the terrorist act. Article 6 of the Organic Code of Courts recognises the application of the principle of extraterritoriality in cases that affect national security (paragraph 3) and with respect to crimes included in treaties signed with other countries (paragraph 8).

#### *Weighting and Conclusion*

CT66. Chile's legislation covers several elements required by the International CFT Agreement, and several of the components of the Recommendation's criteria. However, there are deficiencies in relation to the scope of all terrorist acts set out in the Conventions of the Annex to the CFT International Convention, the scope of mere financing for individual terrorists, the need not to require a connection with a terrorist act for these cases, the criminalisation of all components of criterion 5.2 bis, and the proportionality and dissuasiveness of the penalties. Furthermore, although there is a system of legal persons' criminal liability, it does not fully meet the requirements of the standard. **Recommendation 5 is rated Partially Compliant.**

### *Recommendation 6 – Targeted financial sanctions related to terrorism and terrorist financing*

CT67. In the Third Round of Evaluation's MER, Chile was rated NC for the then SR. III where the main conclusions were the absence of internal regulations to comply with the provisions of UNSCR 1267 and its successive resolutions, as well as 1373, regarding the freezing of terrorist funds and their seizure. In addition, it was pointed out that the country has not formally appointed an authority to centralise the competences required to comply with UNSCR 1267.

CT68. *Criterion 6.1* – (a) It is the responsibility of the Ministry of Foreign Affairs, in coordination with the UAF, to make the proposal for designation under UNSCR 1267 and 1988 in accordance with Article 4 of RCS DS 227. The rule provides that, on the basis of the information forwarded by the UAF, the MINREL may propose to the Al-Qaida committee and associated persons and entities of the SC and to the Committee established pursuant to UNSC Resolution 1988 (2019), the listing or de-listing of individuals on the lists drawn up by these committees.

(b) Articles 2 and 3 of RCS DS 227 provide for the mechanism by which the UAF, in the exercise of its legal functions and powers, shall collect and request relevant information for the purpose of identifying individuals, groups, undertakings or entities that, on reasonable grounds, meet the criteria for inclusion in or removal from the lists of individuals, groups, undertakings or entities designated by the SC Committee established pursuant to UNSCRs 1267 and 1989 concerning Al-Qaida and associated individuals and entities and by the SC Committee established pursuant to UNSCR 1988. In that regard, the UAF will forward to the Minrel, with due safeguards and protection, the information collected on the individuals, groups, undertakings or entities identified and will make recommendations for their proposed inclusion or removal from the lists referred to above.

In turn, the last paragraph of Article 38 of the AML/CFT Law sets forth the obligation of the UAF to regularly provide all its RIs with the lists drawn up by the UNSCR 1267 and 1989 committees (among others), and it must inform the Minrel of the background information collected in accordance with the previous paragraph for the purpose of informing the UN.

(c) In accordance with the regulatory framework, the UAF shall recommend to the Minrel, on reasonable grounds, the listing or de-listing from the above-mentioned lists as provided for in Articles 2 and 3 of RCS DS 227. The regulation does not make the proposal for designation conditional on the existence of criminal proceedings.

(d) In its capacity as the public body designated by law for Chile's relationship with the UN, the Minrel is responsible for the follow-up of the resolutions issued by that body with regard to the standard procedures and forms of the list, whether they are related to UNSCR 1267/1989 or 1988. The above complies with the provisions of Law 21.080 and Decree 227/2016.

(e) The Minrel, with the support of the information provided by the UAF in accordance with Articles 3 and 4 of RCS DS 227 and Article 38 final subparagraph of the AML/CFT Law, shall provide the information available to identify the person, group or entity nominated on the basis of the form established by the SC. Additionally, the country indicated that, when it is appropriate, the Minrel shall include the information needed by Interpol to issue a special communiqué on the person, group or entity.

CT69. *Criterion 6.2* – (a) In accordance with Article 6 of RCS DS 227, and with regard to the designations provided for in UNSCR 1373, the UAF shall collect and request the relevant information in order to identify persons, groups, undertakings or entities that have committed, or attempt to commit, terrorist acts or participate in or facilitate the commission of such acts. Such background information will be reported to the Minrel, which is the authority with competence to

make designations in accordance with UNSCR 1373. Furthermore, Minrel acts as a contact point for cooperation and information exchange on this issue with other countries.

(b) In the framework of UNSCR 1373 and subsequent resolutions, the UAF, in accordance with Article 6 of RCS DS 227, shall collect and request relevant information for the purpose of identifying persons, groups, undertakings or entities that have committed, commit or attempted to commit terrorist acts or participate in or facilitate the commission of terrorist acts in the framework of UNSCR 1373 and subsequent resolutions, and such background information shall be reported to the Minrel in accordance with criterion 6.2 (a). The UAF may also exchange information with its foreign counterparts. The mechanism also includes the obligation of the UAF under the last paragraph of Article 38 of the AML/CFT Law as described in criterion 6.1 (b).

(c) In accordance with the provisions of Article 7 of Decree 227 of 2016, the Minrel is the contact point for the purposes of UNSCR 1373. Beyond the designation of the Minrel as a contact point, there are no rules or procedures in place that provide for the duty to make a prompt decision as to whether they are satisfied, in accordance with existing supra-national principles, that the request is based on reasonable grounds to suspect or believe that the person or entity proposed for designation meets the designation criteria under UNSCR 1373.

(d) With regard to designations under UNSCR 1373, Decree 227 does not provide that a standard of proof based on reasonable grounds should be applied. However, MINREL's resolutions are based on the provisions of Law 19.880, which establishes the basis for the administrative procedures governing the actions of the State Administration (Art. 7 and 41). It should be noted that the regulations do not make the designation conditional on the existence of a criminal prosecution.

(e) It is the responsibility of the Minrel to provide all possible information at the time of requesting the freezing of assets from another country in accordance with Article 7 of RCS DS 227.

CT70. *Criterion 6.3* – (a) The UAF has the power to collect or request identifying information on persons and entities in accordance with Articles 2 and 6 of RCS DS 227, in line with this criterion.

(b) Article 6 of RCS DS 227 empowers the UAF to collect data on the respective persons, and to forward to the Minrel the respective proposals for listing for the purposes of UNSCR 1373. These regulations empower the Minrel to act ex parte. In addition, this process is protected by the lifelong secrecy that the officials of the UAF must keep concerning their activities and information that comes to their attention during the exercise of their duties, in accordance with the first paragraph of Article 13 of the AML/CFT Law.

CT71. *Criterion 6.4* – With regard to the implementation of TFSs, UAF Circular 60/2019 provides for the duty of RIs to check the UNSC lists published on the UAF web site on a regular basis. In the event of detection of a listed person or entity, RIs must immediately inform the UAF (paragraph 4). For its part, Article 38 of the AML/CFT Law sets forth a procedure for applying TFSs to individuals and legal persons listed in the UNSCRs.

CT72. Within 24 hours following receipt of the background information proving that the natural or legal persons listed intend to carry out an act, transaction or financial operation, the UAF must request the Court of Appeal of Santiago to adopt one or more measures necessary to prevent the use, exploitation, benefit, or allocation of any kind of property, securities or money that is the subject of the act, transaction or operation, without prior notice to the person concerned and for a specified period. The Court shall decide on the request within a maximum period of 24 hours. The validity of the measures ordered may not exceed 30 days, but this period may be extended by a grounded decision. Once the measures have been decreed by the relevant Minister, the UAF shall, within a maximum of 24 hours, communicate with the natural or legal person that has reported the acts, transactions or financial operations, so that it may immediately adopt the measures decreed

by the Minister. Likewise, within a maximum period of 72 hours after such measures have been decreed, the parties affected by that Resolution must be informed.

CT73. However, there are doubts as to whether the regime allows the implementation of the TFSs without delay. This is particularly because the time between the verification of the lists and the submission of the STR by the RI, and the application of the freezing measures ordered by the court, may be longer than the notion of “without delay” required by the standard, since the assets are frozen as of the application of the judicial measure. Furthermore, with regard to the scope of the TFSs, the implementation of freezing measures is ordered only with respect to the RI and not with a general scope.

CT74. *Criterion 6.5* – (a) In accordance with the third paragraph of Article 38 of the AML/CFT Law, the measure is ordered without prior notice to the affected party. This is supplemented by UAF Circulars 49 (ordering and systematisation of general instructions given by the UAF to RIs), 54 (prevention of the crime of TF) and 60. However, the regulatory framework does not seem to cover the requirement that the measures be implemented without delay, and this obligation does not apply to all natural and legal persons in the country. According to the legal framework, the obligation to freeze can be ordered only in relation to the person who reported the transaction.

(b) Paragraphs 3 and 5 of Article 38 of the AML/CFT Law indicate the measures that the UAF must request from the Court of Appeal of Santiago in order to avoid the use, exploitation, benefit or allocation of any kind of property, securities or money that is the subject of the act, transaction or operation. However, there are no provisions stipulating that freezing may be applied to all funds: **1.** Owned or controlled by the designated person or entity and not only those which may be linked to a particular terrorist act, plan or threat in accordance with item (i) of criterion 6.5 (b). **2.** Wholly or jointly owned or controlled, directly or indirectly, by persons or entities designated under item (ii) of criterion 6.5 (b). **3.** Derived or generated from funds or other assets owned or controlled directly or indirectly by persons or entities designated in accordance with item (iii) of criterion 6.5 (b). And **4.** From persons and entities acting on behalf or under the direction of persons or entities designated in accordance with item (iv) of criterion 6.5 (b).

(c) There are no regulatory provisions prohibiting all persons within the national territory from providing funds or other assets or related services to or for the benefit of designated persons or entities.

(d) The mechanism for communicating designations to RIs is set forth in UAF Circular 49 and its amendments, which provide for the publication of updated lists on the UAF web site, which in turn RIs must periodically check.

(e) In accordance with the first paragraph of Article 38 of the AML/CFT Law, RIs are required to report to the UAF all acts, transactions or operations carried out or attempted by any of the natural or legal persons identified in the relevant lists of the UNSCRs in accordance with this criterion.

(f) Article 3 at the end of the AML/CFT Law contains a provision that protects the rights of third parties acting in good faith in accordance with this criterion.

CT75. *Criterion 6.6* – (a) In accordance with Article 2 of RCS DS 227, the UAF collects and requests information to determine whether individuals, groups, undertakings or entities meet the criteria for inclusion in or removal from the lists of the UNSCR 1267, 1989 and 1988 Committees respectively. Under Article 3 of RCS DS 227, the UAF shall forward to the Minrel the information collected on the persons, groups, undertakings or entities identified under Article 2, and shall recommend that they be proposed for inclusion in or removal from the lists established by the above-mentioned Committees. Finally, on the basis of the information described, the Minrel shall

propose to the respective Committees the listing or de-listing of a particular person in accordance with Article 4 of RCS DS 227.

(b) With regard to requests for de-listing pursuant to UNSCR 1373, the UAF, as in the case of criterion 6.6 (a), collects the relevant identifying information and forwards it to the Minrel. In accordance with Articles 6 and 7 of RCS DS 227, the latter authority acts as the focal point for making the Resolution operational and coordinating its implementation, both with the UN and with third countries, including any possibility of both listing and de-listing a given person. The procedure for requesting the unfreezing of assets of a person or entity removed from the UNSCR 1373 list is regulated by Article 38 (9) and (10) of the AML/CFT Law. In this regard, it is established that the listed parties may appeal to the Court of Appeals of Santiago against such decision, in order to get it revoked. This authority must decide on the appeal as soon as possible, following a report by the UAF, for which purpose it may open, ex officio or at the request of a party, a special probationary period, which may not exceed three days. Likewise, in the event that by judicial resolution the necessary measures are revoked to avoid the use, exploitation, benefit or allocation of any type of property, securities or money which is the subject of the act, transaction or operation, or the prohibition of transfer, conversion, disposal or movement of funds or other goods is decreed, or the term for which they were decreed has expired, the UAF must communicate this situation to the natural or legal person who has reported the acts, transactions or operations carried out, and which gave rise to the respective investigation.

(c) In addition to the above, the Minrel shall act as a focal point in accordance with the analysis of criterion 6.6 (b), including the procedures involving affected third parties. According to the Chilean legal system, State bodies, including ministries, are governed by the principle of inexcusability established in Article 14 of the LBPA, which means that any person requesting a declaration or specific measure from the Administration shall be granted it by means of an official document. This is reinforced by the provisions of Article 17 of the same law, which details the rights of individuals in relation to the actions of the State. In this sense, it is acknowledged that the procedures required by the criterion are met.

(d) For designations under UNSCR 1988, Article 1 of RCS Decree 227 designates Minrel as a focal point with the UN. In addition, Articles 2, 3 and 4 of the above-mentioned Decree, as well as the final paragraph of Article 38 of the AML/CFT Law and in accordance with Article 6 of UAF Circular 54 and Article 8 of UAF Circular 49, establish the obligation of the UAF to inform third parties and the Ministry itself of the existence and composition of the updated lists for due compliance with its obligations.

(e) It is not evident that the Ministry, as the focal point for implementation of the Resolutions, has procedures for informing persons or entities eventually designated under UNSCR 1267/1989 of the existence of the Office of the UN Ombudsperson for the purpose of sending requests for removal from these lists.

(f) Article 38 (9) of the AML/CFT Law provides that those affected by the TFSs may appeal to the Court of Appeal of Santiago to obtain their revocation. The procedure is therefore of public knowledge and the respective person is informed of it. The Law provides that the appeal must be resolved as soon as possible, following a report by the UAF, for which purpose a special probationary period may be opened, either ex officio or at the request of a party, within which the affected party may invoke the necessary grounds for the unfreezing of the funds. Within this framework, cases of homonymy may be resolved.

(g) De-listings are immediately updated on the UAF website, which must be regularly checked by the RIs. With regard to the assets possibly frozen by a RI, considering that the measure would be judicialized, the future measure of unfreezing would be notified immediately to the person concerned and to the RI so that they can proceed with the respective procedure.

CT76. *Criterion 6.7* – Although Article 445 of the CPC establishes a list of minimum assets that cannot be subject to restrictive measures as to their disposition, all with the purpose of ensuring the maintenance of persons who are subject to legal action, which is a rule that applies additionally to all types of legal contingencies, it is not clear how it applies to freezing measures for persons and entities designated by a (supra) national country, in accordance with UNSCR 1373.

#### *Weighting and Conclusion*

CT77. The country has a framework for implementing TFS measures for TF. However, the regime has the significant deficiencies, among which the following are mentioned: With regard to designations under UNSCR 1373, Decree 227 does not provide that a standard of proof based on reasonable grounds should be applied; there are doubts as to whether the regime allows for the prompt implementation of the TFSs; as to the scope of the TFSs, the implementation of the freezing measures is ordered only with respect to the RI and not on a general basis; and the freezing obligation does not apply to all natural and legal persons in the country. **Recommendation 6 is rated Partially Compliant.**

#### *Recommendation 7 – Targeted Financial Sanctions Related to Proliferation*

CT78. *Criterion 7.1* – With regard to the implementation of TFSs, UAF Circular 60/2019 provides for the duty of RIs to check the UNSC lists published on the UAF web site on a regular basis. In the event of detection of a listed person or entity, RIs must immediately inform the UAF (paragraph 4). For its part, Article 38 of the AML/CFT Law allows for the freezing of funds of persons and entities that are on the sanctions list of UNSCRs 1718 and 1737.

CT79. In this regard, within 24 hours following receipt of the background information proving that the natural or legal persons listed intend to carry out an act, transaction or financial operation, the UAF must request the Court of Appeal of Santiago to adopt one or more measures necessary to prevent the use, exploitation, benefit, or allocation of any kind of property, securities or money that is the subject of the act, transaction or operation, without prior notice to the person concerned and for a specified period. The Court shall decide on the request within a maximum period of 24 hours. The validity of the measures ordered may not exceed 30 days, but this period may be extended by a grounded decision.

CT80. Once the measures have been decreed by the relevant Minister, the UAF shall, within a maximum of 24 hours, communicate with the natural or legal person that has reported the acts, transactions or financial operations, so that it may immediately adopt the measures decreed by the Minister. Likewise, within a maximum period of 72 hours after such measures have been decreed, the parties affected by that Resolution must be informed.

CT81. However, there are doubts as to whether the regime described allows the implementation of the TFSs without delay. This is particularly because the time between the verification of the lists and the submission of the STR by the RI, and the application of the freezing measures ordered by the court, may be longer than the notion of “without delay” required by the standard, assets are frozen as of the application of the court measure. Furthermore, with regard to the scope of the TFSs, the implementation of freezing measures may only be ordered with respect to the RI and not with a general scope. Likewise, paragraph 9 of Article 38 provides for the possibility of appealing the measure with a view to obtaining its revocation, thus there are still concerns about whether the measure could be revoked other than in cases of homonymy or de-listing.

CT82. *Criterion 7.2* – (a) In accordance with the third paragraph of Article 38 of the AML/CFT Law, the measure is ordered without prior notice to the affected party. This is supplemented by UAF Circulars 49 (ordering and systematisation of general instructions given by the UAF to RIs), 54 (prevention of the crime of TF) and 60. However, the regulatory framework does not seem to cover the requirement that the measures be implemented without delay, and it does not require that said obligation be applicable to all natural and legal persons in the country. According to the legal framework, the obligation to freeze can be ordered only in relation to the person who reported the transaction.

(b) Paragraphs 3 and 5 of Article 38 of the AML/CFT Law indicate the measures that the UAF must request from the Court of Appeal of Santiago in order to avoid the use, exploitation, benefit or allocation of any kind of property, securities or money that is the subject of the act, transaction or operation. However, there are no provisions providing that freezing may be applied to all funds: (i) Owned or controlled by the designated person or entity and not only those which may be linked to a particular terrorist act, plan or threat; (ii) funds or other assets owned or controlled, wholly or jointly, directly or indirectly, by designated persons or entities; (iii) funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by the designated person or entity; and (iv) funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities.

(c) There are no regulatory provisions prohibiting all persons within the national territory from providing funds or other assets to or for the benefit of designated persons or entities.

(d) The mechanism for communicating TF designations to RIs is set forth in UAF Circular 60, in section Fourth (which replaces the final paragraph of Title VIII of UAF Circular 49 and its amendments), which provide for the publication of updated lists on the UAF web site, which in turn RIs must periodically check.

(e) In accordance with the first paragraph of Article 38 of the AML/CFT Law, and UAF Circulars 49 and 60, RIs are required to report to the UAF all acts, transactions or operations carried out or attempted by any of the natural or legal persons identified in the relevant lists of the UNSCRs (including PF and successive resolutions) in accordance with this criterion. This regulation must be complemented with Circular 49 Chapter VIII amended by Circular 60, which determines that findings related to listed individuals must be reported.

(f) The final paragraph of Article 3 of the AML/CFT Law contains a provision that protects the rights of third parties acting in good faith in accordance with this criterion.

CT83. *Criterion 7.3* – The UAF has the power to supervise compliance by RIs with measures relating to TFSs and to sanction non-compliance, in accordance with Article 2 of the AML/CFT Law. The applicable sanctions are provided for in Article 19 (a) of the respective Law.

CT84. *Criterion 7.4* – (a) It is not apparent that publicly available procedures have been implemented to submit requests for de-listing from PF UNSCRs as required by the criteria, and therefore no procedures are foreseen to enable listed individuals and entities to submit a de-listing request to the Focal Point in accordance with UNSCR 1730

(b) Article 38 (9) of the AML/CFT Law provides that those affected by the TFSs may appeal to the Court of Appeal of Santiago to obtain their revocation. The Law provides that the appeal must be resolved as soon as possible, following a report by the UAF, for which purpose a special probationary period may be opened, either ex officio or at the request of a party, within which the affected party may invoke the necessary grounds to receive or keep the funds necessary for its support. Within this framework, cases of homonymy may be resolved.

(c) The country points out that, in accordance with the provisions of the Organic Code of Courts, judges are subject to the principle of inexcusability, whereby they must hear all requests relating to proceedings under their jurisdiction. On this basis, any person who considers it necessary to request the availability of funds under the terms set out above may do so directly to the Minister of the Court of Appeal by invoking the procedures set out in the aforementioned Resolutions. However, the link with the conditions for exemption under UNSCRs 1718 and 2231 is not clear as required by the criterion.

(d) De-listings are immediately updated on the UAF website, which must be regularly checked by the RIs. With regard to the assets possibly frozen by a RI, considering that the measure would be judicialized, the future measure of unfreezing would be notified immediately to the person concerned and to the RI so that they can proceed with the respective procedure.

CT85. *Criterion 7.5* – (a) In accordance with the provisions of Article 1464 paragraphs 3 and 4 of the CC and the CPC in Articles 295 and subsequent articles, property subject to a judicial measure, such as that contemplated in Article 38 of the AML/CFT Law, cannot be traded, but rather depends on the fate of the main property, i.e. it remains under the protection and administration of the competent bodies. Accordingly, it is considered that the addition of interest or other earnings to accounts frozen under UNSCR 1718 or 1737 is permitted.

(b) With respect to the freezing resulting from UNSCR 1737 and 2231 and that there is no impediment to making payments under contracts in accordance with the assumptions of the criterion, pursuant to the provisions of the Organic Code of Courts, judges are subject to the principle of inexcusability. However, there are still concerns as to whether this system allows the three conditions set out in this criterion to be met.

#### *Weighting and Conclusion*

CT86. The country has a framework for implementing TFS measures for PF. However, the regime has the following deficiencies: (i) There are concerns as to whether the system allows for the prompt implementation of TFSs; (ii) implementation of freezing measures can be ordered only with respect to the RI and not with a general scope; (iii) there are concerns as to whether the freezing measure could be revoked beyond cases of homonymy or de-listing; (iv) the regulatory framework does not require that the obligation to apply TFSs be imposed on all natural and legal persons in the country; (v) there are limitations on the scope of property subject to the freezing measure; (vi) there are no publicly available procedures for submitting de-listing requests from PF UNSCRs as required by the criteria, and therefore no procedures are foreseen to allow listed individuals and entities to submit a de-listing request to the Focal Point in accordance with UNSCR 1730. **Recommendation 7 is rated Partially Compliant.**

#### *Recommendation 8 – NPO*

CT87. In the 2010 MER, Chile was rated NC in the former SR III considering that there were no mechanisms in the country to prevent the use of NPOs for ML/TF; there were controls only at the time of the constitution of such organisations; there were no controls when these organisations received donations; there was only a duty to inform the SII; and there was no control of their assets or of donations made to them.

CT88. *Criterion 8.1* – (a) On the basis of the information on NPOs registered with the SII, and that contained in other databases, the UAF developed a risk methodology to identify, within the subgroups defined by FATF, the types of NPOs that present the greatest risk of

vulnerability against abuse for ML/TF purposes. The findings are contained in the strategic intelligence report on “Risk Analysis of the Main Aspects of Vulnerability to NPO Abuse for ML/TF.” This report identifies the subset with the greatest exposure to TF, also describes the characteristics and types of NPOs with greater exposure

(b) The NRA points out that NPOs, by their very nature, may be vulnerable to abuse for TF purposes. In addition, the report “Risk Analysis of the Main Aspects of Vulnerability to NPO Abuse for ML/TF” identifies the TF threats for this sector.

(c) In accordance with the second paragraph of the framework cooperation agreement between the MJDH and the UAF, provision is made for the promotion of mutual cooperation in AML/CFT matters between the two authorities, including emphasis on the supervision of NPOs. However, and without prejudice to this measure, there is no adequate review at the regulatory level with regard to the NPOs with the highest risk exposure so that proportionate measures can be adopted to address TF risks.

(d) In order to regularly reassess the NPO sector, the UAF carries out early detection of vulnerabilities in the NPO sector under the ongoing process of ML/TF risk analysis, through the Integrated Strategic Monitoring System “SIMONE.”

CT89. *Criterion 8.2* – (a) Article 8 of Law 20.500 establishes the existence of a National Register of NPOs, which contains information on the establishment, modification, dissolution, or extinction of such associations and the bodies that manage or administer them, among other things. Art. 548-2 of the CC (amended by Law 20.500 in its Article 38 (3)) sets out the obligation of LPs to have statutes, which must include: Name and address of the LP, its duration when it is not set up for an indefinite period, its purposes, the assets that make up its initial capital and how they are contributed, its administrative bodies, how they are to be composed and their powers, as well as how the statutes can be reformed and what the procedure for extinction of the LP would be, indicating the non-profit institution its assets will be transferred to in such a case. Likewise, Article 551 of the CC (amended by Article 38 (5) of Law 20.500), provides that persons who have been sentenced to a term of imprisonment may not be members of the board of directors of an NPO. It also indicates the cases in which the director may be disqualified, the procedure for such purpose and his/her replacement. Additionally, it is established that any of the associates may request information about the association’s accounts, as well as about its activities and programmes. For its part, Article 38 (9), states that NPOs are required to keep accounts in accordance with generally accepted accounting principles. They must also produce an annual report explaining their activities and a balance sheet approved by the assembly or, in the case of foundations, by the board of directors. Those NPOs whose assets or total annual income exceed the thresholds defined by resolution of the MJDH must submit their accounts, balance sheets and financial statements to the examination of independent external auditors. The MJDH also maintains sample statutes that NPOs must use for the purposes of their constitution and registration. In addition, the Council for Transparency (a body created under the Public Service Transparency Law) developed the “Transparency Model for Civil Society Organisations,” which establishes a series of recommendations regarding the strengthening of integrity and transparency in the sector, including the promotion of accountability policies, transparency models, implementation of codes of ethics and conduct, among other elements.<sup>53</sup>

(b) The CGR has developed various venues for connection and outreach to NPOs, including the Council of Civil Society Associations, which is of a consultative nature and is made up of members

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<sup>53</sup> This report is available at the following link:

[https://www.consejotransparencia.cl/wp-content/uploads/estudios/2018/01/sociedad\\_civil.pdf](https://www.consejotransparencia.cl/wp-content/uploads/estudios/2018/01/sociedad_civil.pdf)

of NPOs related to the functions of the CGR. However, these activities do not address the issue of TF vulnerabilities.

(c) There is no evidence of work carried out with NPOs to develop and refine best practices on TF risks and vulnerabilities in the sector.

(d) The MJDH has made available to the NPOs sample statutes in which reference is made to the use of bank accounts or products (for example, when referring to the powers of boards of directors to administer accounts, or when providing for the duties of the treasurer, etc.). However, there are no measures to encourage NPOs to conduct transactions through regulated financial channels in accordance with the criterion.

CT90. *Criterion 8.3* – Article 557 of the CC (amended by Article 38 (9) of Law 20.500) empowers the MJDH to supervise associations and foundations. This supervision may include examination of the minutes of meetings and board meetings, accounting issues (Art. 557 CC). For its part, the framework cooperation agreement between the MJDH and the UAF provides for the promotion of mutual collaboration in AML/CFT matters between the two authorities, including emphasis on the supervision of NPOs. The UAF has the SIMONE system which enables it to carry out permanent monitoring of the sub-sector with the greatest exposure. Additionally, the findings of the Strategic Intelligence Report on “Risk Analysis of the Main Aspects of Vulnerability to NPO Abuse for ML/TF” are used for the purpose of monitoring higher-risk NPOs. From the analysis made, it may be concluded that the UAF carries out permanent monitoring of the sector, which may trigger action by the law enforcement authorities in cases of TF-related cases, although there are limitations on the application of other risk-based measures to NPOs with greater exposure; although the country has some measures for NPOs, these are focused on general registration obligations for all NPOs.

CT91. *Criterion 8.4* – (a) Although Article 557 of the CC provides that the MJDH shall be responsible for supervising NPOs, there are no monitoring measures with regard to compliance by NPOs with the requirements of the Recommendation.

(b) The last paragraph of Article 557 of the CC states that failure to comply with the instructions given by the MJDH shall be regarded as a serious infringement of the statutes; however, it does not provide for the possibility of applying effective, proportionate, and dissuasive sanctions to non-compliant entities. Likewise, it is not apparent that there are any sanctions applicable to persons acting on behalf of NPOs.

CT92. *Criterion 8.5* – (a) Considering the principle of coordination between public bodies contained in Articles 3 and 5 of the Organic Constitutional Law on the General Principles of State Administration (LOCBGAE), the UAF has cooperation agreements for the effective exchange of information, including information on NPOs. In this regard, the following should be noted: (i) Framework cooperation agreement between the MJDH and the UAF, (ii) Cooperation agreement between the UAF and the SRCeI, (iii) Cooperation agreement between the UAF and the SII and (iv) Cooperation and joint work agreement between the CGR and the UAF.

(b) Chile has experience in investigations and has the capacity to examine NPOs under suspicion of being exploited for TF purposes. In this regard, the operation of the SIMONE system through the early detection of vulnerabilities in the NPO sector under the permanent process of ML/TF risk analysis is noteworthy.

(c) With regard to the UAF, the analysis of an NPO is part of the usual process of financial analysis carried out by that institution on the basis of the financial intelligence analysis procedure. In this connection, upon review of a case, this authority has access to multiple databases which enable information to be collected on the subject under investigation. Specifically, the UAF has access to 23 open sources and 5 closed sources of information in the case of NPOs, as well as 16 other data

sources paid for or available on the web. As regards access to information by other competent authorities, the possibility of obtaining relevant information is also evident.

(d) The general coordination mechanisms and channels between the different national authorities can be used to disseminate and share information on NPOs connected to TF.

CT93. *Criterion 8.6* – The UAF and the MP are the competent authorities for sharing information with foreign counterparts on TF, and they have appropriate procedures in place to respond to international requests for information on this matter.

#### *Weighting and Conclusion*

CT94. Chile has assessed the risks associated with NPOs and identified the sub-sector of greatest risk. There is also permanent monitoring of the sector with greatest exposure to risk by the UAF, and there are mechanisms for the exchange of information and investigative capacity. However, there are deficiencies in terms of adequate review at the regulatory level of NPOs with greater exposure to TF, outreach to the sector, the possibility of adopting risk-based measures for NPOs with greater exposure to risk, the adoption of specific measures to encourage NPOs to carry out transactions in regulated financial channels, and the supervision and possibility of applying effective, proportionate and dissuasive sanctions to non-compliant entities by the MJDH. **Recommendation 8 is rated Partially Compliant.**

#### *Recommendation 9 – Financial Institution Secrecy Laws*

CT95. In its 2010 Third Round MER, Chile was rated LC for former R.4. The country was required to make the necessary legislative changes to remove any confidentiality rules that might affect the effectiveness of the system.

CT96. *Criterion 9.1* – Article 154 of the LGB provides for the secrecy regarding deposits and collections received by banks, while other transactions are subject to reserve, which means that banks can disclose them to anyone who demonstrates a legitimate interest. The same article provides that the ordinary courts may lift the bank secrecy in the cases they are hearing, and the MP may also lift it, subject to the authorisation of the judge of guarantee, on the investigations for which it is responsible.

CT97. The UAF may request from its RIs any background information that, upon review of a suspicious transaction previously reported to the Unit or detected by it in the exercise of its duties, may be necessary and relevant for the development or completion of the analysis of that transaction (Article 2 (b) of the AML/CFT Law). The regulation on bank secrecy does not apply in cases of obligations to report ML/TF suspicious transactions and cash transactions to the UAF. The AML/CFT Law allows to lift the secrecy or reserve for cases in which ML or TF suspicious transactions are investigated, prior authorization of a Minister of the CA, who will have 3 days to make a decision. If the request is rejected, the UAF may appeal.

CT98. In addition, Article 154 of the LGB provides that the CMF may send the banking information subject to reserve that is necessary to the UAF to assess the initiation of one or more administrative procedures under the terms of Title II of the AML/CFT Law (Article 35, (5), Law 21.000).

CT99. Article 154 (7) of the LGB states that in investigations carried out in connection with the offences established in Articles 27 and 28 of the AML/CFT Law, the prosecutors of the MP—with the authorisation of the JG, granted by a substantiated resolution issued in accordance with article 236 of the CPC—may require the submission of all background information or copies of documents on deposits, collections, or other transactions of any kind in relation to persons, communities, entities or de facto associations that are the subject of the investigation and that are related to it.

CT100. In addition, as provided for in Article 5 (22) and (23) of CML DL 3538, the CMF may provide technical assistance and cooperate, within the scope of its jurisdiction, in the investigation of non-compliances that fall within its jurisdiction, upon request by domestic or foreign regulatory, supervisory or self-regulatory bodies or international organisations, including the provision of information available to it, pursuant to conventions or Memoranda of Understanding (MoUs) it has entered into for technical cooperation, information exchange, training, and mutual assistance.

CT101. With regard to the services provided by PFMs under subparagraph II (3) of NCG 160, it is provided that CDD information on the member or customer shall be kept in the respective PFM and shall be available to the UAF and the SP upon request, which requires the PFMs to have at full disposal all the information required in an eventual intelligence investigation related to ML/TF.

#### *Weighting and Conclusion*

CT102. All criteria are met. **Recommendation 9 is rated Compliant.**

#### *Recommendation 10 – Customer Due Diligence*

CT103. In its 2010 Third Round MER, Chile was rated partially compliant for former R.5. The following deficiencies were identified: (1) The existence of minor sanctions for non-compliance with the obligations set forth in the AML/CFT Law, especially those related to violation of instructions issued by virtue of Article 2 (f) of the Law, do not contribute to compliance with the criteria. (2) The high threshold for the proper identification of the customers of the non-regulated foreign exchange market and for money transfer, and securities and money transport companies. (3) Assess the existing regulation in these sectors, with a view to avoiding the structuring of operations below the established threshold. (4) Need to implement supervision of the sectors that, with the exception of the UAF, have no specific AML/CFT supervisor (e.g. non-banking credit card operators). (5) In the cases provided for in criterion 5.16, consider the termination of the business relationship and the filing of a STR. (6) The SVS should issue the necessary complementary regulations for Brokers and Securities Dealers, taking into account the deficiencies found in the process of identifying the BO. (7) With the exception of the SBIF and the SVS (except as stated above), a clear definition is needed regarding the documentation required for the accreditation of a legal person, in particular with regard to its structure, corporate purpose, and members in order to determine who the owner or owners are and, in short, its BO. (8) Lack of specific rules and controls regarding Corporations, Foundations, and NPOs. (9) Lack of training programmes in AML/CFT matters in the financial sectors not regulated by the Superintendence of Banks and Financial Entities.

CT104. *Criterion 10.1* – In accordance with Art. 39 of the LGB and Art. 1 of the LCB Law, deposit accounts may only be held by banks and institutions expressly authorised by law for this purpose. Current accounts can only be opened by banks (Art. 1 LGB), which by their nature cannot be anonymous. The LBCCh (Art. 35) provides that banks and credit unions (CACs) cannot document

the deposits they receive through the issuance of bearer instruments, and in general (demand deposit and savings accounts) require the signing of agreements to open them. In the securities market sector, proof of identity and verification of legal capacity is mandatory to start the business relationship. (Subparagraph 2 (a) NCG 380 CMF). Thus, FIs cannot have anonymous accounts or accounts under obviously fictitious names.

CT105. *Criterion 10.2* – The AML/CFT Law empowers the UAF to issue AML/CFT regulations, which must be complied with by the RIs. In addition, prudential laws provide for different customer identification duties applicable to different FI sectors (Article 518.1 of the Code of Commerce, Articles 34, 45, 46 of Law 18.045, 34 of Law 20.712, 34 of Law 20.712, Articles 2, 3 and 4 of Law 18.876, Article 6 of DFL 5 of 2003, Article 4 (b) of Law 19.983). The provisions for FIs to carry out CDD procedures are set forth in UAF Circular 49, as amended by UAF Circular 59, in addition to UAF Circular 57.

(a) In accordance with UAF Circular 49, Title III, subparagraph 1 (a), amended by UAF Circular 59, RIs must adopt CDD measures before or during the establishment of a permanent legal or contractual relationship between the respective customer and the FI. In particular, with regard to credit card issuers and operators, they must apply CDD measures with respect to credit cards with provision of funds, of a nominal nature, as indicated in items (a) - (c).

There are also some provisions relating to the implementation of the CDD on prudential matters. In relation to FIs under prudential regulation by the SP, Compendium Book IV, Title XI, Chapter II, paragraph II (1), subparagraph 1 (c), in relation to Voluntary Savings Account (VSA); Compendium Book IV, Title XI, Chapter II, paragraph II (1), subparagraph 1 (b); with respect to Banks, RAN Chapter 1–14 Title II (2); for the CAC, CMF Circular 123, Title II (2); with respect to FIs under prudential regulation of the CMF securities/insurance, CMF Circular 1809, paragraph 2; in the case of stockbrokers, securities agents and commodity brokers, CMF NCG 380, Section II (2).

(b) Title III of UAF Circular 49, as amended by UAF Circular 59, refers in its item 1 to the fact that all RIs must adopt CDD measures when occasional transactions are carried out with a customer with whom they do not have a permanent legal or contractual relationship, for an amount equal to or greater than USD 1,000, where the transaction is executed in a single or several operations that appear to be linked.

(c) Title III, number 1 of UAF Circular 59, which amends UAF Circular 49, applies to all RIs, among them those who provide money transfer services— and covers the circumstances under R.16 when they carry out occasional transactions. In addition, the prudential regulations for banks refer in Chapter 21–14 Title II of the RAN that special attention should be paid to identifying the originator and beneficiary of transfers of funds. In addition, CMF regulations establish in Chapter 1–7, No. 2 of the RAN general identification and backup conditions applicable to electronic information and funds transfers.

(d) Title III, item 1 (c) of UAF Circular 59, amending UAF Circular 49, states that all RIs must adopt CDD measures when there is suspicion of ML/TF, regardless of the defined exemptions and thresholds. In particular, UAF Circular 58 provides for similar provisions for payment card issuers and operators with provision of funds.

(e) The Chilean authorities point out that Title III of UAF Circular 49, final paragraph of number 2, states that customer information obtained through the CDD process “must be updated annually or when there are relevant changes,” so that if there is any doubt or lack of accuracy in the customer data, the RI must enforce this updating procedure which involves conducting a new CDD process. Likewise, according to paragraph 3 of Circular 59, when there are doubts about the accuracy and reliability of the information, RIs must request additional information and documentation or resort to other legal sources of information.

CT106. *Criterion 10.3* – UAF Circular 49, as amended by UAF Circular 59, sets forth in Title III (2) and (3) the information and supporting documentation that must be requested from customers. In particular, the following is required: (a) Name or business name. In the case of LPs, the company's fictitious name must be added, if appropriate. (b) Identity card or passport in the case of natural persons. In the case of a LP, the RUT—or similar number if it is foreign—must be requested, and evidence of its incorporation, form, and legal status, in accordance with the provisions of UAF Circular 57. (C) Nationality, occupation or trade in case of natural persons or business purpose in case of LPs. (d) Country of residence. (e) Domicile in Chile or in the country of origin or permanent residence. (f) Contact e-mail and/or telephone number. (g) Purpose of the legal or contractual relationship, or of the occasional transaction. However, it should be noted that Circular 49 does not explicitly refer to customers that are foreign legal arrangements (the formation of local legal arrangements is not allowed under domestic law, as indicated in the discussion of R.25).

CT107. RIs must take reasonable measures to verify the information and documentation provided by the customer, and may always request additional information and documentation from the customer, or resort to other legal sources of information, to verify—within its organisational and legal possibilities—the accuracy and reliability of the information and documentation provided by the customer.

CT108. *Criterion 10.4* – In Chile, one can only act on behalf of another person by virtue of a legally granted mandate which contains all the identification details of the principal and the agent, and which must be submitted prior to any act intended to be carried out on the latter's behalf. This document is governed by the rules of the Civil Code (CC) (Articles 2116 to 2130). The prudential legal framework establishes that PFMs (Compendium Book III, Title I, Chapter IV (J) first paragraph, and Book III, Title I, Chapter V (J)), banks (Chapters 2–2, 2–4 and 2–6 of the RAN), securities, insurance (CMF Circular 1809) and cooperatives (CMF Circular 108) have the obligation to verify whether the person claiming to act on behalf of the customer is empowered to do so and must identify and verify the identity of that person.

CT109. *Criterion 10.5* – Article 2 (a) of UAF Circular 57 provides for the obligation to identify the BO. Article 2 (d) of the same regulation requires RIs to take reasonable measures to verify the information declared with regard to the BO, and may request additional documentation from the same customer, or resort to other legal sources of information to verify—within their organisational and legal possibilities—the accuracy of what the customer has declared.

CT110. *Criterion 10.6* – The first paragraph of Circular 49, as amended by Circular 59, states that it is the duty of RIs to identify and know their customers, in order to understand the purpose and character that they intend to give to the legal or contractual relationship or occasional transaction, and to use this information to prevent and detect ML/TF. Additionally, in Section III, 2 (g) it is required—within the framework of the CDD—to ask about the purpose of the legal or contractual relationship or occasional transaction.

CT111. *Criterion 10.7* – (a) Title III of UAF Circular 49, amended by Circular 59, item 4, requires RIs to apply Ongoing CDD measures, and to develop a regular analysis of the behaviour of their customers, their acts, operations and/or transactions over the course of the relationship, to ensure that they are consistent with the customer's stated purpose, their business line, and risk profile, including the origin of the funds, where applicable.

(b) The final paragraph of Section 2, Title III of UAF Circular 49 requires RIs that the CDD information must be included in a customer file, which must be updated annually or whenever there are relevant changes. In cases of higher risk, enhanced CDD measures should be applied, including obtaining customer information and updating customer and BO information and identification documents more frequently. This greater frequency may be determined for each new act, operation and/or transaction made in excess of an established monetary threshold.

CT112. *Criterion 10.8* – Title III of Circular 49 states that it is the duty of RIs to identify and know their customers, in order to understand the purpose and character that they intend to give to the legal or contractual relationship or occasional transaction, and to use this information to prevent and detect ML/TF. UAF Circular 49 does not expressly establish the duty to understand the shareholding or control structure of the legal person or arrangement, although it does establish a series of requirements that would make it possible to know it. Section 2, Title III, establishes the information and documents that must be required from customers who are LPs: a. Corporate name and fictitious name; b. Unique Tax Number, or similar if it is foreign, proof of its incorporation (the deeds of incorporation setting out the purpose for which it was incorporated, its shareholding structure and control and management bodies), form and legal status; c. Business line; d. Country of residence; e. Domicile. In addition, under paragraph Second, subparagraph (a) of UAF Circular 57 provides that the procedure for requiring the identification of the BO of the customer that is a LP or legal arrangement shall be by means of a form to be completed by the customer, including specific information on its legal representatives.

CT113. *Criterion 10.9* – UAF Circular 49, Title III, paragraph 2, sets out the information that must be requested from the customer that is a legal person or legal arrangement, in order to identify and verify its identity:

- (a) Part of the required documents are: a. Corporate name and fictitious name and b. Proof of its incorporation, form, and legal status (articles of incorporation).
- (b) The articles of incorporation in which the shareholding structure and control and management bodies are established.
- (c) Additionally, FIs require from the customer that is a legal person or arrangement, information on d. Country of residence and e. Domicile.

CT114. *Criterion 10.10* – (a) In accordance with Article 2 (a) of UAF Circular 57, RIs must request from its customers that are legal persons or arrangements, a declaration containing sufficient identification data regarding the identity of their BOs. RIs must take reasonable measures to verify the information declared by the customer that is a legal person or arrangement concerning its BO, with the possibility of requesting additional documentation from the same customer, or resorting to other legal sources of information to verify the customer's declaration. For the purposes of complying with the obligations established in said Circular, a BO is defined as “natural persons who hold directly or indirectly, through companies or other mechanisms, a participation equal to or greater than 10% of the capital or voting rights of the legal person or arrangement in question.”

(b) Similarly, UAF Circular 57 provides that RIs must identify and verify the identity of the natural person(s) who—without prejudice to direct or indirect ownership of less than 10% of the capital or voting rights of a legal person or legal arrangement, through companies or other mechanisms—exercises effective control in the decision-making processes of the legal person or arrangement.

(c) Paragraph Second, subparagraph 2 (a) of UAF Circular 57 provides that the procedure for requiring the identification of the BO of the customer that is a legal person or arrangement shall be by means of a form to be completed by the customer. This form includes specific information on its legal representatives, including the general manager.

CT115. *Criterion 10.11* – (a) The analysis of criterion 10.10 (a) and (b) is applicable to this criterion.

(b) In the case of customers that are foreign legal arrangements, RIs must require the identity and domicile of the relevant natural person holding the highest management position or function abroad and of their legal representatives domiciled in Chile, and they must deliver, within a maximum period of 45 working days, all the information on the BO of such foreign legal arrangements.

CT116. *Criterion 10.12* – The relevant regulatory framework applicable to the identification of the beneficiaries of life insurance policies is provided for in Articles 518 and 593 of the Code of Commerce, CMF Circular 1089 (2006) and NCG 349 of 2013, which establish rules regarding the deposit of policies and minimum provisions for insurance policies.

(a) Regarding the beneficiary identified as a natural or legal person, Art. 518.1 of the Code of Commerce requires its identification in the policy (subsection 1), therefore the requirement of the sub-criteria is met. Additionally, CMF Circular 1089 (2006), applicable to insurance sector institutions, provides in its paragraph 4 a minimum information requirement for those operations that involve the payment to the entity of a cash amount above the equivalent of 450 Development Units, or those carried out by natural or legal persons that can be considered as suspicious transactions. In this connection, subsection (b) requires the following information: Name and surname(s), RUT or its equivalent for non-resident foreigners, nationality, profession, line of business, address, telephone number, and e-mail address of the investor, customer, or party to the transaction, among other data. This provision requires the identification of the beneficiaries of the policy identified at the moment of subscribing to the product in those operations that fall into the two categories indicated in paragraph 3 of the Circular.

(b) Regarding the cases in which a beneficiary must be designated by characteristics or by class or by other means, Article 518.1 of the Code of Commerce requires that the manner of determining this must be specified. Without prejudice to this, there are no provisions that require sufficient information to be obtained about the beneficiary of the life insurance policy so that the identity of the beneficiary can be established at the time of payment.

(c) The Code of Commerce, CMF Circular 1089 (2006) and NCG 349 of 2013 do not contain provisions requiring verification of the identity of the beneficiary at the time of payment.

CT117. *Criterion 10.13* – In accordance with UAF Circular 59 (5a), RIs should apply enhanced CDD when high risks are considered, including obtaining additional customer information and updating customer and BO information and identification more frequently. However, the regulatory framework does not require FIs to include the beneficiary of a life insurance policy as a significant risk factor in determining whether enhanced CDD measures are appropriate. Nor does it provide that if the FI determines that the beneficiary that is a legal person poses a higher risk, it should be required to take enhanced measures, which should include reasonable measures to identify and verify the identity of the beneficiary's BO at the time of payment.

CT118. *Criterion 10.14* – According to the provisions of UAF Circular 49, Title III, Section 1 (a) and (b), the CDD process must be adopted before or during the establishment of a permanent legal or contractual relationship, or when one or more casual transactions are carried out. In addition, Title III, Section 3 of the above-mentioned Circular lays down the obligation to develop measures for verification of information and documents obtained during the CDD process. For its part, with regard to BO, UAF Circular 57 establishes similar criteria for the timeliness of the request for information and its review, as set forth in subparagraphs (b) (1) and (d) respectively, both of Section 2.

CT119. In particular, UAF Circular 59 states that in cases of application of Simplified CDD, verification of the identity of the customer and BO may be postponed until an act, operation and/or transaction is carried out above a certain monetary threshold (Art. 1 b) ii), provided there is no suspicion of ML/TF. However, there are no provisions regarding the obligation to verify the identity of the customer as soon as possible and that the referred postponement is essential in order not to interrupt the normal conduct of the transaction.

CT120. *Criterion 10.15* – UAF Circular 59 states that in cases of application of Simplified CDD, verification of the identity of the customer and BO may be postponed until an act, operation and/or transaction is carried out above a certain monetary threshold (Art. 1 b) ii), provided there is no suspicion of ML/TF.

CT121. *Criterion 10.16* – The regulations (Circulars) issued by the UAF are immediately applicable and RIs must implement them immediately upon all its customers, even existing ones at the date of issuance of the Circular, as well as upon new customers thereafter, except in cases where their enforcement has exceptionally been extended, as in the case of UAF Circular 57 (Section 2, subparagraph (b) (2)), where the enforcement of BO measures upon customers that are legal persons that were customers of the FIs before the publication and entry into force of the Circular was postponed.

CT122. *Criterion 10.17* – UAF Circular 59 sets forth that where ML/TF risks are determined to be high (in customers, products, services or otherwise), RIs should apply enhanced CDD. (Title III, 5 (a))

CT123. *Criterion 10.18* – UAF Circular 59 sets forth that where ML/TF risks are determined to be low, simplified CDD measures may be applied. However, simplified CDD measures are not permitted when there are suspicions of ML/TF in relation to a customer or when specific higher-risk scenarios arise.

CT124. *Criterion 10.19* – (a) In relation to banks, Chapter 1–14 of the RAN, Section 2, last paragraph sets forth that in case of doubts on the accuracy of the customer information, or if he/she would hinder its proper identification, the bank should consider terminating the business relationship and filing an STR with the FIU. In relation to PFMs, these may not open a voluntary savings account by the mere fact of making a contribution, without having previously requested and received identifying information and conducting due diligence processes. Moreover, it is indicated that, if upon opening a voluntary savings account the member does not provide CDD information, the account should not be opened (Compendium, Book IV, Title XI, Chapter II, subparagraph (b)). However, the duty to terminate the relationship by banks when corresponding CDD measures cannot be satisfied is subject to assessment. In addition, there are no rules applicable to other FIs that would provide that when they cannot comply with the relevant CDD measures, they should not open the account, start the business relationship, or carry out the transaction or terminate the business relationship.

(b) UAF Circular 49 (amended by UAF Circular 59), Title III, Section 3, second paragraph provides that in the event that the customer refuses to hand over all or part of the information and documentation required for conducting CDD measures, or if the information provided is found to be false or inaccurate, such circumstances should be considered as red flags for the purpose of analysing the filing of a STR with the UAF. A similar provision is set forth in Circular 57 UAF paragraph Second, subparagraph (h).

CT125. *Criterion 10.20* – UAF Circular 49, Title III, provides that in the event that the customer refuses to hand over all or part of the information on CDD, it should be considered as a red flag for the purpose of analysing the filing of a STR with the UAF. However, there is no provision to allow FIs not to conduct CDD in such cases.

#### *Weighting and Conclusion*

CT126. Chile has provisions for FIs to identify the customer and verify the customer's identity, as well as the customer's BO, and complies with most of the elements required by the Recommendation. Nevertheless, there are some deficiencies in the system, albeit they are considered minor in the context of the country's existing CDD system. The main deficiencies are that UAF Circular 49 does not expressly establish the duty to understand the shareholding or control structure of the legal person or arrangement, although it provides a series of requirements that allow to know it; there are no provisions that require that verification of the identity of the beneficiary of a life insurance policy should be conducted at the time of payment; the regulatory framework does not require FIs to include the beneficiary of a life insurance policy as a material risk factor in determining whether enhanced CDD measures should be applied; and there are no provisions applicable to all FIs that provide that where they are unable to comply with the relevant CDD measures, they should not open the account, start the business relationship or conduct the transaction or terminate the business relationship. **Recommendation 10 is rated Largely Compliant.**

#### *Recommendation 11 – Record-Keeping*

CT127. *Criterion 11.1* – FIs must keep special records for at least five years (Art. 5 AML/CFT Law). Title II of UAF Circular 49 provides for the obligation to create and maintain records of cash transactions above USD 10,000 or its equivalent in Chilean pesos, as well as of national and international electronic transfers of funds. In addition, the CDD Register should contain all the information of those transactions that would have required a CDD system. Furthermore, from a prudential point of view, certain provisions are established regarding the maintenance of records for a minimum period of 5 years after the completion of the transaction. (Art. 155 LGB, Art. 5.4 DL 3538, Section IV CMF NCG 380).

CT128. *Criterion 11.2* – FIs must keep special records for at least five years (Art. 5 AML/CFT Law). Title II of UAF Circular 49 provides for the obligation to create and maintain information records on all transactions that may have been required in the context of the application of CDD measures established by means of UAF Circular 59, which amends UAF Circular 49. In addition, all information, records, and documents obtained in application of the measures must be kept in the file. Furthermore, from a prudential point of view, certain provisions are established regarding the maintenance of records for a minimum period of 5 years after the completion of the transaction. (Art. 155 LGB, Art. 5.4 DL 3538, Section IV CMF NCG 380). Without prejudice to this, the regulations do not specify that the maintenance of the records obtained through the CDD procedures must be extended for at least 5 years after the end of the business relationship.

CT129. *Criterion 11.3* – Title II of UAF Circular 49 provides that the information kept must be made available to the UAF upon request. This information contains records of cash transactions, CDD records, records of transactions conducted by PEPs, and records of electronic fund transfers. Meanwhile, UAF Circular 59, amending UAF Circular 49, provides in its Title III (1) that all

information, records and documents obtained in application of CDD measures, including ongoing CDD, must be kept in the respective file. The information is sufficiently detailed to enable reconstruction of each transaction.

CT130. *Criterion 11.4* – Title II of UAF Circular 49 provides that the information kept must be made available to the UAF upon request. Furthermore, according to Article 180 (3) of the CPC, the MP in charge of an investigation is empowered to request information from any person or public official, without excuse, except for express exceptions in the law.

#### *Weighting and Conclusion*

CT131. FIs must keep special records for at least five years. From a prudential point of view, certain provisions are established regarding the maintenance of records for a minimum period of 5 years after the completion of the transaction. Without prejudice to this, the regulations do not specify that the maintenance of the records obtained through the CDD procedures must be extended for at least 5 years after the end of the business relationship. **Recommendation 11 is rated Largely Compliant.**

#### *Recommendation 12 – Politically Exposed Persons*

CT132. In its 2010 Third Round MER, Chile was rated PC for former R.6. The MER established that there was no express provision to consider the case of a customer who has become a PEP after the start of the business relationship and what the approval levels would be in that case. In the interviews carried out, it was evident that some RIs had a low perception of the concept of PEPs and of the enhanced monitoring they require. Deficiencies in the identification of the BO by securities agents and brokers undermine the effectiveness of the system.

CT133. *Criterion 12.1* – Title IV of UAF Circular 49 states that Chileans or foreigners who hold or have held outstanding public functions in a country will be considered PEPs for at least one year after the end of their period in office. This category includes heads of state or government, senior politicians (including members of boards of directors of political parties), senior government, judicial or military officials, senior executives of state enterprises, as well as their spouses, their relatives up to the second degree of consanguinity, and natural persons with whom they have concluded a joint action agreement by which they have sufficient voting power to have an influence on companies incorporated in Chile. However, Chilean legislation does not include in its definition PEPs who have been entrusted with a prominent role by an international organisation.

CT134. In this regard, RIs must implement and execute CDD measures with respect to foreign PEPs, which also include:

(a) Establish appropriate risk management systems to determine whether or not a potential customer, a customer or the BO is a PEP. In addition, UAF Circular 57, paragraph Second (f) provides that if a customer who is a LP has a BO that is a PEP, that customer should be treated as a PEP, and all the measures indicated in Title IV of UAF Circular 49 should be applied to it.

In addition, from a prudential perspective, FIs regulated by the SP in accordance with paragraph II (1), Chapter II, Title XI, of Book IV of the Compendium of Rules of the Pension System, must comply with the provisions provided in UAF Circular 49 or any other that amends or replaces it. Banks regulated by the CMF must comply with the rules on operations with PEPs contained in Title II, paragraph 2 of Chapter 1–14 of the RAN on prevention of ML/TF and Chapter 1–16 of the RAN on operations and contracts entered into with PEPs. In addition, the aforementioned Chapter 1–14

recommends applying at least the regulatory requirements on know-your-customer contained in Chapter 2–2 of the RAN, on current accounts and checks, even when PEPs do not hold accounts with the institution.

(b) Obtain and require, if applicable, approval from senior management to establish business relations with a PEP or with one customer that has become so when the business relationship precedes this condition.

In addition, the Board of Directors of the FI regulated by the SP must be aware of any movements made by PEPs in their voluntary savings accounts over a certain amount, which must be established in the institution's policies and procedures. (Compendium of Pension System Regulations, Book IV, Title XI, Chapter II, Paragraph II (1), subparagraph 1(e)). In the case of banks, Chapter 1–14, Title 2, paragraph 2 of the RAN, in the know your customer area, explicitly states that if the customer is a PEP or becomes so during the course of the business relationship, they must get the approval of senior management. In addition, Chapter 1–16 of the RAN states that loans over an amount previously approved by the Board of Directors for this purpose will be submitted for review and ratification, duly documented, by a senior management body. In addition, the Board of Directors must receive information, with the frequency that it may define, about the transactions or contracts signed with PEPs. In relation to securities and insurance entities regulated by the CMF, the approval of senior management is required to establish business relationships with customers considered as PEPs, as well as to maintain the business relationship with a customer who, in the course of such relationship, becomes so. Likewise, while this business relationship is in force, an enhanced supervision of this relationship must be carried out. (paragraph 2, subparagraph 4 of CMF Circular 1809).

(c) Take reasonable steps to define the source of funds, the source of customer and BO funds identified as PEPs, and the purpose of the transaction.

Moreover, for FIs regulated by the SP, Compendium, Book IV, Title XI, Chapter II, paragraph II (1), subparagraph (1) which refers to the implementation of UAF Circular 49, shall apply to them. In the case of banks, Chapter 1–14 of the RAN indicates that, in the case of transactions by PEP customers, the bank must require a declaration on the source of the funds when it refers to a transaction that is above the lower threshold between that defined by the AML/CFT Law and that regulated in-house. This declaration must be accompanied by supporting documentation. For its part, Chapter 1–16 of the RAN states that regulations shall also apply to operations in which a PEP is the BO as established by the UAF, without prejudice to including also LPs that, according to the information available, have links with a PEP and that, in the opinion of the institution, require similar treatment.

(d) Implement procedures and measures for ongoing due diligence on the business relationship established with a PEP.

As regards FIs prudentially regulated by the SP and the CMF (pensions, banks, securities and insurance), there are also provisions for ongoing due diligence with PEPs. (Compendium, Book IV, Title XI, Chapter II, paragraph II (1), subparagraph (1) which refers to the implementation of Circular 49 UAF, Chapters 1–14 and 1–16 of the RAN, and CMF Circular 1809, respectively).

CT135. *Criterion 12.2* – (a) The definition of PEP set forth in UAF Circular 49 includes domestic PEPs, and therefore the obligation to establish appropriate risk management systems to determine whether a potential customer, a customer, or the BO is a PEP applies to them. However, there are no provisions for PEPs who have been entrusted with a prominent role by an international organisation.

(b) PEPs entrusted with a prominent role by an international organisation, not being covered by the country's legislation, are not subject to the measures contained in criteria 12 (b) to 12 (d).

CT136. *Criterion 12.3* – Subparagraph 2 of Chapter IV of UAF Circular 49 includes in the category of PEPs the spouses of the PEP, their relatives up to the second degree of consanguinity (parents, children, grandparents, grandchildren, brothers and sisters) and natural persons with whom they have entered into a joint action agreement by which they have sufficient voting power to influence companies incorporated in Chile (including their close partners), thereby subjecting FIs to all the obligations contained in Chapter IV of the same Circular, as well as the analysis of criteria 12.1 and 12.2. However, FIs may not apply criteria 12.1 and 12.2 to family members or close associates of PEPs entrusted with a prominent role by an international organisation, nor to their close associates, as they are not regulated under Chilean regulations.

CT137. *Criterion 12.4* – In the case of FIs offering life insurance policies, UAF Circular 49 and CMF Circular 1809 analysed in the previous criteria are applicable to them. However, in addition to what is indicated in the obligation contained in paragraph (f) of UAF Circular 57 on BO identification that are PEP, the issues raised in the analysis of criteria 12.1 to 12.3 also apply to them.

#### *Weighting and Conclusion*

CT138. Chile meets most of the criteria in R.12. However, no obligation exists to consider as PEPs persons entrusted with a prominent role by an international organisation, and therefore neither their family members nor close associates. In addition, the findings of criteria 12.1 to 12.3 could affect the identification of PEPs by FIs offering life insurance policies under criterion 12.4. In that sense, R.12 is rated **Largely Compliant**.

#### *Recommendation 13 – Correspondent Banking*

CT139. In its 2010 Third Round MER, Chile was rated LC for former R.7. The MER noted the need to take the necessary measures to ensure that when new correspondent relationships are established, controls implemented to detect ML/TF transactions are assessed and approved by senior management.

CT140. *Criterion 13.1* – Chapter 1–13 Title II, paragraph 3.2 (e) of the RAN applicable to banks states that, as part of the AML/CFT efforts, the board of directors must ensure the existence of a framework of policies and procedures, including good governance, which involves having procedures for conducting correspondent banking relationships. In this regard, Chapter 1–14, Title II, paragraph 3 of the RAN requires banks to have a handbook that establishes policies and procedures to avoid becoming involved in, or serving as a vehicle for facilitating or conducting ML/TF operations, expressly stating that one of the essential elements that such policies must contain is the development of adequate surveillance methods and relations with correspondent banking.

CT141. Chapter 1–14 Title II, paragraph 3 of the RAN establishes that with regard to correspondent relations and other relations with transnational banks, banks must, among other factors:

- (a) gather sufficient information about the banks they have any kind of relationship with to enable them to fully understand the nature of the business they are conducting and to verify the reputation and quality of their supervision.
- (b) assess the policies and procedures in place to detect ML/TF transactions.
- (c) obtain senior management approval before establishing new correspondent relationships.
- (d) document the responsibilities of each institution.

CT142. *Criterion 13.2* – (a) The RAN does not provide for specific requirements for payment transfer accounts abroad. However, the elements required in Chapter 1–14 Title II, paragraph 3, in line with the analysis in the previous Criterion, would allow this aspect to be addressed.

(b) There are no rules requiring the correspondent bank to be satisfied that the represented bank is able to provide relevant CDD information upon request in cases where payment transfer accounts exist in other jurisdictions.

CT143. *Criterion 13.3* – Banks should refrain from establishing business relationships or conducting transactions with shell or fake banks. (Chapter 1–14, Title II, paragraph 3 of RAN). However, there are no provisions explicitly requiring banks to be satisfied that respondent FIs do not allow their accounts to be used by shell banks.

#### *Weighting and Conclusion*

CT144. Chilean banking institutions have a legal framework in place that allows them to address correspondent and other relationships with transnational banks, to gather sufficient information to understand the nature of the business, to verify the reputation and quality of supervision, and to evaluate the policies and procedures applied to detect ML/TF transactions. There are no rules requiring the correspondent bank to be satisfied that the represented bank is able to provide relevant CDD information upon request in cases where payment transfer accounts exist in other jurisdictions. Additionally, there are no provisions explicitly requiring banks to be satisfied that respondent FIs do not allow their accounts to be used by shell banks. **Recommendation 13 is rated Largely Compliant.**

#### *Recommendation 14 – Money or Value Transfer Services*

CT145. In its 2010 Third Round MER, Chile was rated PC for former SR. VI because there was no express rule requiring all authorised or registered MVTS service operators to maintain an up-to-date list of their agents. The competent authorities were not required to carry out effective supervision in this area.

CT146. *Criterion 14.1* – In accordance with Article 40 of the AML/CFT Law, all RIs referred to in Article 3 of that law—including natural or legal persons providing money and value transfer services—are required to be registered in the register of institutions supervised by the UAF, regardless of whether they are subject to sectoral supervision or regulation.

CT147. *Criterion 14.2* – In accordance with Article 40 of the AML/CFT Law, the UAF has the power to notify and demand compliance with the obligation to register, and can sanction failure to comply with this obligation. By virtue of the above, the UAF has established in its MPF a procedure for the incorporation of RIs by means of massive notification processes, through the use of strategic analysis mechanisms to generate—on the basis of cross-checking data with SII bases—a list of entities that should be required to register or clarify whether they are engaged in the activity. In this context, the UAF has used strategic analysis mechanisms to generate, by means of cross-checking data with IIS databases, a list of entities that should be required, by means of a communication addressed to their legal representative, to register or to clarify whether they are engaged in the activity. For this purpose, the respective entities or persons are notified by certified letter.

CT148. *Criterion 14.3* – Money transfer companies (MTCs), as RIs under Article 3 of the AML/CFT Law, are subject to supervision and monitoring by the UAF (Article 2 (f) of the AML/CFT Law) with regard to compliance with all AML/CFT obligations.

CT149. *Criterion 14.4* – Natural or legal persons providing money and value transfer services are required to be registered in the register of institutions supervised by the UAF (Article 40 of the AML/CFT Law), which also includes the agents of MVTs providers.

CT150. *Criterion 14.5* – In the case of MVTs providers' agents in Chile, they are required to register with the UAF under Article 40 of the AML/CFT Law, and are therefore subject to implementation of ML/TF prevention and detection programmes.

#### *Weighting and Conclusion*

CT151. All criteria are met. **Recommendation 14 is rated Compliant.**

#### *Recommendation 15 – New Technologies*

CT152. In Chile's 2010 MER, the former R.8 was rated C.

CT153. *Criterion 15.1* – ML/TF risks associated with the development of new products and business practices, and the use of new technologies or technologies under development for new or existing products, have not been identified and assessed. Notwithstanding this, measures have been adopted following analyses linked to new means of payment, as is the case of UAF Circular 58/2018 and CMF regulations on non-bank payment card issuers. In the MP area, training on virtual assets has been developed.

CT154. Monitoring of new payment methods is also carried out through the Financial Stability Board, created under the Ministry of Finance in 2011. In 2019, the FSB issued a public statement on the risks associated with the acquisition and holding of crypto currencies, which referred to the prevention of ML/TF.<sup>54</sup> Finally, the UAF's risk matrix regularly scans the information contained in its database in order to detect and produce alerts potentially associated with ML/TF, including transactions involving new payment methods, new technologies, and virtual assets.

CT155. *Criterion 15.2* – (a) In accordance with the Compendium of Rules of the Pension System, Book IV, Title XI, Chapter I, fifth and sixth paragraphs, the application of a RBA requires PFMs to incorporate in their risk matrices the evaluation of the effects of new products to which their customers may have access, as well as the use of new technologies and the possibility that these products may be used to commit ML/TF offences.

In addition, Chapter 1–13, Title II, paragraph 3.2 (b) of the RAN states that good management of financial risk by banking institutions includes ensuring that new products are subject to a rigorous analysis of the risks involved before they are launched. CMF Circular 2054 provides that securities brokers and dealers should have a risk management function, which should, inter alia, analyse the risks associated with new products, transactions, and activities. (Title III, paragraph 1 (k)). However, there is no legal framework applicable to all FIs to conduct risk assessments prior to the launch or use of new practices and technologies.

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<sup>54</sup> <https://www.hacienda.cl/consejo-de-estabilidad-financiera/comunicados-del-consejo/el-consejo-de-estabilidad-financiera.html>

(b) Chapter 1–13, Title II, paragraph 3.2 (b) of the RAN states that good management of financial risk for banking institutions includes ensuring that new products are subject to a rigorous analysis of the risks involved before they are launched. In general, in accordance with the legal framework for the prudential regulation of FIs, provisions are made for the handling and management of ML/TF risks. With regard to RIs in general, UAF Circular 49, as amended by UAF Resolution 59, provides in its risk management section that when ML/TF are determined to be high, whether in relation to customers, products, services or others, reporting institutions must apply enhanced CDD measures (Section III.5.a).

#### *Weighting and Conclusion*

CT156. The country has carried out a follow-up linked to new means of payment, and has adopted some measures linked to the ML/TF risks of payment assets and new technologies. However, Chile does not seem to have identified and evaluated the risks associated with new products and business practices, and with the use of new technologies or developing technologies for new products or existing products. Furthermore, while there are provisions applicable to PFMs, banks, and securities sector, there is no legal framework applicable to all FIs to conduct risk assessments prior to the launch or use of such products, practices, and technologies. **Recommendation 15 is rated Partially Compliant.**

#### *Recommendation 16 – Wire Transfers*

CT157. In its 2010 MER, Chile was rated PC for former SR VII because FIs were not required to send information on the originator along with the transfer message. Furthermore, FIs that operate in the exchange market not regulated by the Central Bank of Chile and supervised by the UAF did not have the express obligation to keep the information when acting as an intermediary.

CT158. *Criterion 16.1* – (a) RIs must comply with Title V of UAF Circular 49, as amended by Circular 59, in order to incorporate information on: (i) amount and date of the transfer, (ii) name of the originator, (iii) ID number, (iv) account number of the originator, and (v) address of the originator, among other aspects. In addition, Chapter 1–14 of the RAN instructs that banks should pay special attention to identifying the originator and the beneficiary of funds transfers.

(b) Paragraph V of UAF Circular 49, as amended by Circular 59, requires identification of the name or corporate name of the beneficiary, in addition to his or her identity card or RUT. However, there are no provisions establishing the requirement to include the beneficiary's account number when the account is used to process the transaction or, if there is no account, a unique reference number of the transaction to allow it to be traced.

CT159. *Criterion 16.2* – Regulations do not distinguish between one and several transfers and require information of the previous criterion in all cases. Please refer to the analysis of criterion 16.1.

CT160. *Criterion 16.3* – Paragraph V of UAF Circular 59 (on wire transfers) states that accurate and meaningful information on the originator and beneficiary must be included for transfers of funds equivalent to or higher than USD 1,000. This information is not required for transfers below the threshold (although general CDD measures apply). Please refer to the analysis of Criterion 16.1. However, as far as banks are concerned, Chapter 1–7 of the RAN also applies, which provides that the systems used for wire transfers, in addition to allowing the full recording and monitoring of the transactions conducted, must also generate files to support each transaction's records—which are

necessary for any subsequent examination or certification—such as the dates and times when they were conducted, the content of the messages, identification of the operators, originators and beneficiaries, the accounts and amounts involved, the locations from which the transactions were conducted, etc. This regulation does not contemplate a threshold.

CT161. *Criterion 16.4* – Paragraph V of UAF Circular 59 provides for the duty to verify the accuracy of all transfers equal to or higher than USD 1,000. In the case of transfers for smaller amounts, the provisions of paragraph III of the same circular apply, which provides for the duty of RIs to take reasonable measures to verify the information, although it is not an explicit obligation. In any case, the CDD process must be carried out when there is suspicion of ML/TF.

CT162. *Criterion 16.5* – UAF Circular 59, paragraph V, applies to both domestic and cross-border wire transfers, so it is considered that it partially addresses the requirement of the criterion, and there are doubts with regard to non-banking institutions when they are conducted below a defined threshold, as it was specified in criterion 16.3.

CT163. *Criterion 16.6* – As indicated in the previous criterion, the regulation is applicable both for domestic and cross-border transfers, so the information is accompanied as provided for cross-border transfers. Without prejudice to this, limitations are noted with regard to the transactions of non-banking institutions below the threshold. Law enforcement authorities have the possibility of requiring the timely submission of information.

CT164. *Criterion 16.7* – In accordance with paragraph V of UAF Circular 59, the information collected and incorporated in the transfer must be kept in the respective register for at least five years.

CT165. *Criterion 16.8* – UAF Circular 59 provides that it is the duty of all RIs providing wire transfer services to incorporate the information detailed in criterion 16.1. In addition, the regulation provides that it is the duty of the institutions that receive the funds transferred electronically to adopt all safeguard measures for the purpose of isolating and managing the transactions that do not comply with the submission of the mandatory information by the remitting institution, and must determine, according to the associated risk, whether to settle, reject, cancel, or suspend the wire transfer. However, the originating institution is not required to stop the wire transfer when it does not comply with all the information requirements.

CT166. *Criterion 16.9* – Paragraph V of UAF Circular 59 provides that it is the duty of all RIs providing wire transfer services to include information on the originator and beneficiary and to keep it for a minimum of five years in the special register for the purpose. This applies to intermediary FIs, since the regulation does not distinguish whether they are intermediaries or beneficiaries. However, it does not apply to transactions below the threshold defined for non-banking institutions in accordance with criterion 16.3.

CT167. *Criterion 16.10* – FIs must keep special records for at least five years (Art. 5 AML/CFT Law). Title II of UAF Circular 49 provides for the obligation to create and maintain information records on all transactions that may have been required in the context of the application of CDD measures established by means of UAF Circular 59, which amends UAF Circular 49. In addition, all information, records, and documents obtained in application of the measures must be kept in the file.

CT168. *Criterion 16.11* – In accordance with the final paragraph of paragraph V of UAF Circular 59, it is stated that FIs receiving funds transferred electronically must adopt all safeguard measures in order to isolate and manage transactions that do not comply with the submission of mandatory information by the ordering entity. It is also noted that failure to send complete information may be considered a risk factor. For the purposes of the AML/CFT regulations, intermediary institutions are considered to be recipient institutions, and therefore this provision is applicable to them.

CT169. *Criterion 16.12* – According to paragraph V of UAF Circular 59, FIs receiving funds must adopt all safeguard measures in order to isolate and manage operations that do not comply with the submission of mandatory information by the remitting institution, and must determine, according to the associated risk, to settle, reject, cancel, or suspend the wire transfer. It should also be noted that RIs must comply with the rules of ongoing CDD, which provide that the ongoing analysis of their customers' behaviour must ensure that their acts, operations, and transactions are commensurate with their risk profile. For the purposes of the AML/CFT regulations, intermediary institutions are considered to be recipient institutions of funds, and therefore this provision is applicable to them.

CT170. *Criterion 16.13* – In accordance with the final paragraph of paragraph V of UAF Circular 49, FIs receiving funds transferred electronically must adopt all safeguard measures in order to isolate and manage transactions that do not comply with the submission of mandatory information by the ordering entity. It is also noted that failure to send complete information may be considered a risk factor. It should also be noted that RIs must comply with the rules of ongoing CDD, which provide that the ongoing analysis of their customers' behaviour must ensure that their acts, operations and transactions are commensurate with their risk profile.

CT171. *Criterion 16.14* – The beneficiary of an international wire transfer of funds received by a FI in Chile is a customer for that RI, and therefore the CDD measures set forth in Section III of UAF Circular 59 must be applied. Additionally, paragraph V of UAF Circular 59 sets forth that the information collected and incorporated in the transfer must be kept in the respective register for five years.

CT172. In addition, Chapter 1–7 of the RAN indicates that the systems used for wire transfers, along with ensuring the full recording and monitoring of the transactions carried out, should generate files to support the history of each transaction, necessary for any subsequent examination or certification, including the identification of operators, originators and recipients, among others.

CT173. *Criterion 16.15* – Based on the analysis of criterion 16.12, paragraph V of UAF Circular 59 provides that FIs receiving funds must adopt all safeguard measures in order to isolate and manage operations that do not comply with the submission of mandatory information by the remitting institution, and must determine, according to the associated risk, to settle, reject, cancel, or suspend the wire transfer. It should also be noted that RIs must comply with the rules of ongoing CDD, which provide that the ongoing analysis of their customers' behaviour must ensure that their acts, operations and transactions are commensurate with their risk profile. However, it is not apparent that the regulations provide for appropriate follow-up actions once the wire transfer is or is not managed in accordance with criterion 16.15 b).

CT174. *Criterion 16.16* – Paragraph V of UAF Circular 49 (amended by UAF Circular 59) sets forth that the obligations are applicable to all RIs that provide fund transfer services. Consequently,

the regulation is applicable to money or value transfer service providers, and therefore the analysis of the previous criteria is applicable.

CT175. *Criterion 16.17* – With regard to money and value transfer service providers that control both the originator and the beneficiary of a wire transfer:

(a) General STR obligations are applicable. RIs must report suspicious transactions detected in the course of their activities. Article 3 of the AML/CFT Law provides that a suspicious transaction is to be understood as any act, operation or transaction which, in accordance with custom and usage of the activity concerned, is unusual or lacks apparent economic or legal grounds or could constitute one of the behaviours referred to in Article 8 of the CFT Law, or is carried out by a natural or legal person listed in any UNSCR lists, whether it is carried out individually or repeatedly. For the purposes of filing STRs, RIs should use all relevant information at their disposal.

(b) The general STR regulation is not applicable. It is not clear that the regulations provide for the obligation to file an STR in the country affected by the suspicious electronic transfer and that it should provide the relevant information on the transaction to the respective Financial Intelligence Unit.

CT176. *Criterion 16.18* – The general provisions on targeted financial sanctions apply in the context of the processing of wire transfers. Please refer to the analysis in R.6.

#### *Weighting and Conclusion*

CT177. Chile has regulations covering most of the elements of Recommendation 16. However, the following deficiencies are noted, although they are considered minor in the context of compliance with the Recommendation: There are no provisions establishing the requirement to include the beneficiary's account number when the account is used to process the transaction or, if there is no account, a unique transaction reference number that allows the transaction to be traced; except for banks, no complete information is required in cases of transactions within the USD 1,000 threshold. For transactions under USD 1,000, there is no explicit requirement to verify the information in case of suspicion of ML/TF, although reasonable measures are required for this purpose; there is no requirement for the originating institution not to execute the wire transfer when it does not meet all the information requirements; there are limitations on compliance with criteria 16.6 and 16.9 with respect to transactions by non-banking institutions that are below the threshold and there is no provision for filing an STR in the country affected by the suspicious wire transfer and providing the relevant information on the transaction to the respective FIU. **Recommendation 16 is rated Largely Compliant.**

#### *Recommendation 17 – Reliance on Third Parties*

CT178. In its 2010 Third Round MER, Chile was rated LC for former R.9 because the universe of institutions that make up the financial system lacked the requirements to be met by third parties that could be entrusted with the fulfilment of know your customer due diligence, or, where appropriate, expressly define the impossibility of delegating such a task.

CT179. *Criterion 17.1 – 17.3* The Chilean regulatory framework only provides for CDD measures to be carried out by reporting institutions. Reliance on third parties is not envisaged.

#### *Weighting and Conclusion*

CT180. **Recommendation 17 is rated Not Applicable.**

*Recommendation 18 – Internal Controls and Foreign Branches and Subsidiaries*

CT181. The 2010 Third Round MER of Chile rated former R.15 and R.22 PC. For R.15, the MER noted that not all financial sector entities expressly set forth the powers of the compliance officer, nor did they require that background checks be carried out when hiring employees. In the case of R.22, since the Recommendation was not applicable to the financial sector entities supervised by the SVS and the SP, it was considered that those supervised by the SBIF had partial regulations in place, while those supervised by the UAF were not expressly regulated to comply with R.22.

CT182. *Criterion 18.1 – (a)* Paragraph 4 of Art. 3 of the AML/CFT Law sets forth FI's obligation to appoint a liaison officer with the UAF. Title VI.i of UAF Circular 49 sets forth that among the main AML/CFT components there is the obligation to implement a ML/TF prevention system. RIs should appoint a compliance officer (CO), whose main duty will be to coordinate suspicious transaction prevention and detection policies and procedures, as well as be responsible for compliance with AML/CFT obligations. The CO must hold a position of high responsibility within the company, such as area or division manager, in order to ensure due independence in the performance of its work. In those cases where the RI is a natural person or an individual limited liability company, such person or individual partner may perform the duties of the CO. In the area of prudential regulation there are also provisions for the appointment of an officer responsible for AML/CFT policies and procedures, consistent with the provisions of the UAF regulations. (FIs under SP regulations: Compendium, Book IV, Title XI, Chapter II, paragraph II (1), subparagraph (3); FIs under CMF banks regulations: Chapter 1–14 Title II paragraph 4 of the RAN; FIs under CMF Securities/Insurance regulations: CMF Circular 1809)

(b) Title VI.ii of Circular 49 provides that the RIs must have a prevention handbook that must contain AML/CTF-related standards of ethics and conduct of the company's staff, which must include behaviour guidelines to be followed by persons linked directly or indirectly to the RI, their relationship with the UAF and with other third parties. These guidelines should be mandatory for managers, employees, and associates of the RI. Furthermore, Compendium Book IV, Title XI, Chapter II, paragraph 4 provides that the PFMs regulated by the SP must include adequate personnel selection procedures, to ensure high standards when recruiting their employees, in order to prevent the incorporation of officials linked to organisations that carry out or are related to ML and TF operations. CMF Banks, in accordance with Chapter 1–14 Title II paragraph 7 of the RAN, establishes that banks must have policies and rules for the selection of staff and for their behaviour in relation to customers, in order to prevent ML/TF transactions. Additionally, paragraph 7 of CMF Circular 1809 applicable to securities and insurance provides that personnel selection criteria must be established to prevent the recruitment of officials linked to organisations that carry out ML and/or TF transactions. In addition, a code of conduct must be in place which, among other things, prevents behaviour that allows or facilitates conducting ML transactions. Without prejudice to the above, the CACs do not have provisions establishing that their AML/CFT programmes must include rigorous selection procedures to guarantee high standards in the hiring of employees.

(c) Title VI.iii of Circular 49 establishes that RIs must develop and execute permanent training and instruction programmes for their employees, activities that they must attend at least once a year. A written record must be kept of the training carried out.

There are similar provisions in the Compendium Book IV, Title XI, Chapter II, paragraph II.1, subparagraph II and III under number 4 applicable to PFMs, Chapter 1–14 of the RAN applicable to the banking sector, and in CMF Circular 1809 applicable to securities and insurance.

(d) For PFMs (Compendium Book IV, Title XI, Chapter II, paragraph II.1, number 5), Banks (Chapter 1–14 Title II, paragraph 8 of the RAN, Chapter 1–15 of the RAN), CAC (Circular 123 CMF, Title II, paragraph 7), payment card issuers (annexes No. 1 and 2 to CMF Circular 1), stockbrokers, securities dealers, securities depositories, General fund administrators, insurance companies, (Title II, paragraph 2 of CMF Circular 2054, Title IV, paragraph 3 (d) of CMF Circular 1939, NCG 309 CMF) there are provisions for the internal audit function. There are no provisions relating to the duty to have an external audit.

CT183. *Criterion 18.2* – The AML/CFT regulations do not distinguish between parent companies and branches, so AML/CFT programmes must be implemented by all entities. Subsidiaries are considered to be a RI independent of their parent company, with direct and autonomous responsibility for compliance with all AML/CFT obligations.

(a) The elements of Criterion 18.1 are applicable to both the parent company and the subsidiaries. Without prejudice to this, there are no provisions requiring financial groups to have programmes that include policies and procedures for sharing the information required for CDD and ML/TF risk management purposes.

(b) Without prejudice to the fact that the legislation establishes the obligation of the RI to have compliance programmes, the regulations do not provide for the obligation to have programmes that include the provision of compliance at group level in the terms required by the sub-criterion.

(c) The regulations provide for provisions on confidentiality and tipping off. RIs and their employees are prohibited from informing the affected party or third parties of the fact that information has been requested or sent to the UAF, as well as any other relevant information. (Article 6 of AML/CFT Law)

CT184. *Criterion 18.3* – Chapter 1–14 of the RAN, in Title II.1, provides that, if the bank has branches or subsidiaries abroad, the Board of Directors must ensure that the laws and regulations of the host country allow for adequate compliance with the requirements established in terms of the AML/CFT prevention system. If this is not possible, it must inform the CMF. However, in the event that the host country does not allow adequate implementation of AML/CFT measures in accordance with the country of origin, beyond the duty to inform supervisors, financial groups are not required to apply appropriate additional measures to manage ML/TF risks. For their part, PFMs must adopt measures to ensure that their branches and subsidiaries that are established in Chile to provide services or invest in a PFM abroad apply AML and CFT measures, at least under the terms established in the regulations applicable to PFMs in Chile. (Compendium Book IV, Title XI, Chapter II, paragraph II.2). Additionally, among the principles of CMF Circular 1809 (paragraph 2), it is established that entities shall ensure that the principles applicable to domestic FIs are also applied to foreign subsidiaries and branches, especially in countries where FATF Recommendations are not applied or are insufficiently applied. Where such implementation is prohibited by applicable foreign laws and regulations, entities should report such situation to the CMF.

#### *Weighting and Conclusion*

CT185. RIs are required to implement AML/CFT compliance programmes, and the most relevant elements of Recommendation 18 are addressed by the regulations. Notwithstanding the above, the following deficiencies are noted: CACs do not have provisions requiring their AML/CFT programmes to include rigorous selection procedures to ensure high standards in the hiring of employees; the regulations require the obligation to have internal auditing, but there are no provisions for external audits; the elements of Criterion 18.1 are applicable to both the parent

companies and the subsidiaries. Notwithstanding this, there are no provisions requiring financial groups to have programmes that include policies and procedures for sharing the information required for CDD and ML/TF risk management purposes; and notwithstanding that the legislation establishes the obligation of RIs to have compliance programmes, there is no obligation to have programmes that include the provision of compliance at group level in the terms required by the sub-criterion. **Recommendation 18 is rated Largely Compliant.**

#### *Recommendation 19 – Higher-Risk Countries*

CT186. The 2010 Third Round MER of Chile rated former R.21 LC. The MER notes that there were no regulations in place to provide for an explicit obligation to apply appropriate countermeasures in the event that a country continues not to apply, or insufficiently applies, the FATF Recommendations.

CT187. *Criterion 19.1* – With regard to FIs in their capacity as RI to the UAF, in accordance with Title IX of UAF Circular 49, which refers to non-cooperative countries and territories and tax havens, Chile requires FIs to pay special attention to transactions with countries or jurisdictions that are under FATF follow-up because of deficiencies in their AML/CFT systems. In addition, in accordance with Article 3 of UAF Circular 59, countermeasures must be applied to transactions that may be conducted with countries or jurisdictions when the FATF makes this request.

CT188. Chapter 1–14 of the RAN on AML/CFT for FIs under CMF prudential regulation provides that the AML/CFT Handbook should consider procedures that address business relationships and transactions with natural or legal persons from or in countries that insufficiently apply the FATF Recommendations.

CT189. With respect to FIs under CMF prudential regulation in the securities/insurance sector, CMF Circular 1809 requires entities to ensure that principles applicable to domestic FIs are also applied to subsidiaries and branches located abroad, particularly in countries that do not or insufficiently apply the FATF Recommendations.

CT190. *Criterion 19.2* – Title IX of UAF Circular 59 applicable to FIs under UAF regulation provides for the obligation to apply countermeasures proportionate to the risks where the FATF has called for them. Likewise, Article 3 of that Circular provides that RIs must be especially careful in their daily work regarding the transactions they may conduct with countries or jurisdictions on the list published by the SII on countries and jurisdictions considered to have a preferential tax regime.

CT191. *Criterion 19.3* – Title IX of UAF Circular 49, provides FIs supervised by this authority, the link to the UAF website containing the list with the jurisdictions under the monitoring of the FATF, as well as those with preferential tax regimes. In addition, Title VI (ii) (4) of UAF Circular 49 requires RIs to include in their AML/CFT Handbook a detailed procedure for timely notice to the UAF of subjects included on UN lists or that belong to non-cooperative countries.

#### *Weighting and Conclusion*

CT192. All criteria are met. **Recommendation 19 is rated Compliant.**

#### *Recommendation 20 – Reporting of Suspicious Transactions*

CT193. The 2010 Third Round MER of Chile rated former R.13 and SR. IV as PC and NC, respectively. The obligation to submit STRs for terrorist financing to the UAF was not clearly established by law, nor was the possibility of reporting an attempt to carry out a suspicious transaction.

CT194. *Criterion 20.1* – RIs must report suspicious transactions detected in the course of their activities. Article 3 of the AML/CFT Law provides that a suspicious transaction is to be understood as any act, operation or transaction which, in accordance with custom and usage of the activity concerned, is unusual or lacks apparent economic or legal grounds or could constitute one of the behaviours referred to in Article 8 of the CFT Law, or is carried out by a natural or legal person listed in any UNSCR lists, whether it is carried out individually or repeatedly. The regulation does not exactly state that FIs must report their suspicions or reasonable grounds for suspecting that funds are derived from criminal activities, but the definition of suspicious transaction allows to cover such obligation and the AT was able to verify that this is complied with in practice.

CT195. With regard to the time limit for submission of the report to the UAF, the second paragraph of UAF Circular 49, No.1, requires the report to be filed rapidly and expeditiously, and to be accompanied by all the necessary background information.

CT196. *Criterion 20.2* – In accordance with Article 3 of the AML/CFT Law, FIs have the obligation to report suspicious transactions to the UAF regardless of the amount. It is considered that the attempt to conduct a transaction is covered by the duty to report, since the regulation also covers acts and not just transactions.

#### *Weighting and Conclusion*

CT197. Chile has regulations in place requiring FIs to send STRs to the UAF promptly. The regulation also provides for reporting in the event of attempts to carry out transactions. The regulation does not exactly state that FIs must report their suspicions or reasonable grounds for suspecting that funds are derived from criminal activities, although the definition of suspicious transaction also allows to cover such assumptions and the AT was able to verify that this is complied with in practice. For this reason, it is considered a minor deficiency. **Recommendation 20 is rated Largely Compliant.**

#### *Recommendation 21 – Tipping-off and Confidentiality*

CT198. In the 2010 MER of Chile, former R.14 was rated C.

CT199. *Criterion 21.1* – The AML/CFT Law, Art. 3, final subparagraph sets forth that whoever provides information in good faith is exempt from all liability. This protection applies in relation to the filing of STRs, as well as any delivery of information that RIs, private or public, make to the UAF (Cash Transaction Report [CTR], complements of information, etc.).

CT200. *Criterion 21.2* – Article 6 of the AML/CFT Law prohibits all RIs and their employees from informing the person concerned or a third party of the fact that information has been sent to the UAF, or from providing any other relevant information. The same prohibition applies to those required by the UAF to provide information during the review of an operation previously reported to the UAF or detected by it in the exercise of its powers. In that sense, these powers do not seem to hinder the exchange of information referred to in R.18.

*Weighting and Conclusion*

CT201. All criteria are met. **Recommendation 21 is rated Compliant.**

*Recommendation 22 – DNFBPs: Customer due diligence*

CT202. In Chile's 2010 3rd Round MER, former R.12 was rated NC due to the fact that not all DNFBPs mentioned in Recommendation 12 were included as RI; there was a lack of regulation of sectors included as RI in the AML/CFT Law; there was a lack of training in the regulated sectors, except in the case of gambling casinos; there were minor sanctions for not knowing the rules; a clear definition was needed with regard to the documents that were indispensable for the accreditation of a legal person, in particular with regard to its structure, corporate purpose, and members of the company in order to determine who its owners are and, in short, its BOs; there was a lack of dissemination and there was a lack of knowledge of the concept of PEP by the RIs who had demonstrated disinformation on the matter, there was a lack of awareness, in general, about the existence of lists of persons and organisations linked to terrorism or its financing; there were high thresholds established for know your customer policies and cash transaction reports.

CT203. *Criterion 22.1* – (a) Casinos have the obligation to identify and know their customers, understood as any natural person with whom they carry out operations appropriate to their business, involving the transfer of sums of money equal to or higher than USD 3,000 or the equivalent in other currencies (Article 1.1, paragraph 1, UAF/SCJ Joint Circular 50). In addition, the AML/CFT measures in UAF Circular 49 (amended by UAF Circular 59), analysed in R.10, are applicable to them.

(b) For real estate brokers and management companies, the preventive measures of UAF Circular 49 (amended by UAF Circular 59), analysed in R.10, are applicable.

(c) Dealers in precious metals and stones are not RIs.

(d) Notaries are subject to the preventive measures of UAF Circular 49 (as amended by UAF Circular 59) analysed in R.10. UAF Circular 42 also applies to them, establishing instructions on ML prevention, which main components must be set out in a handbook, which will give due account of the policies and procedures to be applied to prevent them from serving as a means for the eventual commission of the offence, including aspects relating to customer knowledge, when the service required represents or involves a transaction of more than 1,000 Development Units. However, lawyers, other legal professionals, and independent accountants are not RIs.

(e) Chile does not have trust service providers, due to the inexistence of the trust concept in the terms foreseen in the standard. However, corporate service providers have not been included as RIs.

CT204. *Criterion 22.2* – For this criterion, the analysis of R.11 on the general framework established for all the RIs is applied.

CT205. *Criterion 22.3* – For this criterion the analysis of R.12 on the appropriate part of UAF Circular 49 is applied.

CT206. *Criterion 22.4* – For this criterion, the analysis of R.15 is applied.

CT207. *Criterion 22.5* – For this criterion, the analysis of R.17 is applied.

### *Weighting and Conclusion*

CT208. The provisions issued by the UAF are applicable to both FIs and DNFBBs in their capacity as RIs. However, dealers in precious metals and stones, lawyers, independent accountants, and company service providers are not subject to AML/CFT obligations. Additionally, the deficiencies noted in Recommendations 10, 11 and 12, and whether DNFBBs have specific provisions setting out the requirements for new technologies under R.15 affect compliance with this Recommendation. **Recommendation 22 is rated Partially Compliant.**

### *Recommendation 23 – DNFBBs: Other measures*

CT209. In Chile's 2010 3rd Round MER, former R.16 was rated partially compliant because not all DNFBBs are RIs required to report suspicious transactions for AML/CFT purposes. The effectiveness of the system with regard to real estate agents and registrars, as well as casinos supervised by the UAF, could not be verified.

CT210. *Criterion 23.1* – For this criterion, the analysis of R.20 is applied to all RIs. However, dealers in precious metals and stones, lawyers, accountants, other legal professionals, and corporate service providers are not subject to ML/TF prevention obligations, and thus are not subject to suspicious transaction reporting obligations.

CT211. *Criterion 23.2* – For this criterion, the analysis of R.18 is applied to all RIs and the fact that certain activities have not been included as RIs has an impact.

CT212. *Criterion 23.3* – For this criterion, the analysis of R.19 is applied to all RIs and the fact that certain activities have not been included as RIs has an impact.

CT213. *Criterion 23.4* – For this criterion, the analysis of R.21 is applied to all RIs and the fact that certain activities have not been included as RIs has an impact.

### *Weighting and Conclusion*

CT214. The provisions issued by the UAF are applicable to both FIs and DNFBBs in their capacity as RIs. However, lawyers, accountants, dealers in precious metals and stones, and company service providers are not subject to AML/CFT obligations. **Recommendation 23 is rated Partially Compliant.**

### *Recommendation 24 – Transparency and Beneficial Ownership of Legal Persons*

CT215. The 2010 Third Round MER of Chile rated former R.33 PC because there were deficiencies concerning the lack of a single commercial registry at national level where all information on legal persons could be held in digital form and accessed by natural or legal persons, and there were no guarantees that the competent authorities could timely access information on the beneficial owners and control of legal persons.

CT216. *Criterion 24.1* – (a) In Chile, there are two types of LPs, those that are oriented towards purely commercial or trade activities, and those that carry out non-profit activities. With regard to business LPs, there are two types of incorporation regimes: The traditional regime and the simplified regime, which allow for the creation, modification, transformation, division, merger, and

dissolution of LPs. Under the Chilean legal framework there are: Limited liability civil and commercial companies, corporations, limited partnerships, joint stock companies, individual limited liability companies, reciprocal guarantee corporations, professional sports corporations, commercial partnerships (Law 3918 on SRL, Law 19.857 on EIRL, Law 18.046 on SA, Law 20.179 on SGR, Law 20.019 on SADP, Law 20.190 on SPA, Law 20.659, Law simplifying the regime for the incorporation, modification, and dissolution of commercial companies). The same laws establish the mechanisms for the incorporation and registration of information on the LP and its ownership structure. With regard to the registration of information, there are two systems for incorporating companies in Chile, the traditional or conservative system, and the electronic system, business and company registration known as “your company in one day.” In the case of non-profit legal entities, they are registered in the National Registry, under the authority of the Civil Registry and Identification System (SRCeI) (Law 20.500, special regulations; Title XXXIII of Book I of the CC, Law 19.418, Law 19.712, Law 19.638, and Law 19.253).

(b) According to Law 18.046, Law on Corporations, corporations can be both open and closed. Open corporations will be subject to the control of the Superintendence of Securities and Insurance, and must be registered with the National Register of Securities and observe the special legal dispositions applicable to them. (Article 2). Corporations are formed, exist, and certified by public deed. An excerpt of the corporate deed, authorised by the respective notary, must be registered with the Commercial Registry of the company’s domicile and published once in the Official Gazette. (Article 5). Basic information on legal persons is largely available in various publicly accessible databases and can be accessed remotely by the competent authorities. (Information from the SII, Official Gazette, Civil Registry Service, real estate registrars). However, regarding the information of the BO, the legal framework of the UAF Circular 57, requires that only FIs must identify it, so the limitations indicated in the analysis of criteria below are evident.

CT217. *Criterion 24.2* – The ML/TF NRA together with the 2007–2018 ML Typologies and Red Flags Report, indicate the frequent misuse of legal persons in the ML schemes investigated in Chile. In this context, the UAF conducted a risk analysis of legal persons and arrangements, with the aim of identifying ML/TF vulnerabilities. This document analyses the procedures for the incorporation, modification and/or dissolution of LPs, in short, the regulatory framework and the process for identifying the BO of LPs. As a result, vulnerabilities are identified, and figures are provided regarding the misuse of LPs in prevention/detection and prosecution/sanction in ML/TF schemes. Among the findings of the study, it was found that the group of legal persons that represent a high risk of exposure to ML/TF misuse are SpAs, both civil and limited liability companies.

CT218. Authorities indicated that this study was disseminated to different public and private entities, in order to raise awareness of the importance of legal persons and arrangements for ML/TF schemes.

CT219. As regards non-profit legal persons, the UAF has developed a methodology for evaluating their risks, and its findings are contained in the strategic intelligence report on “Risk Analysis of the Main Aspects of Vulnerability to NPO Abuse for ML/TF.” This report identifies the subset with the greatest exposure to TF.

CT220. *Criterion 24.3* – In Chile there is a public registry in which new companies or companies that undergo changes must be registered through an electronic system called “Registry of Companies and Corporations” under Law 20.659 or through registration in the CBR’s Commercial Registry. Article 2 of Law 20.659 describes the types of LPs that are subject to this mechanism of incorporation and registration. For its part, Title II establishes all the information that must be

registered in the respective forms and which will be added to the register. Finally, Title IV regulates the register, providing that it will be national, public, free and kept up to date.

CT221. Additionally, Article 20 of the CCOM establishes the Commercial Registry, in which all acts of commerce must be registered, including the acts of incorporation of all business legal persons, according to Law 3918 on SRL, Law 18.046 on S.A., Law 19.857 on EIRL, LGC and Law 20.190 on SPA.

CT222. *Criterion 24.4* – In the case of corporations, in accordance with Article 7 of Decree 702 R S.A., they must keep a Register of Shareholders where at least the name, address and national identity card or unique tax number of each shareholder will be recorded, as well as the number of shares held, the date on which the shares were registered in their name and, in the case of subscribed and unpaid shares, the method and opportunities for payment. In the event that a shareholder transfers all or part of his/her shares, this circumstance must be recorded in the Register. The Register of Shareholders shall be opened on the day the deed of incorporation is granted. Likewise, with respect to companies in general, the obligations of Title VII of the Code of Commerce apply, which in all cases require the information of 24.3 and its registration in the public registry.

CT223. *Criterion 24.5* – In accordance with the provisions of Title VII of the Code of Commerce, companies are incorporated and certified by means of a public deed duly registered in the public registry. The basic information of the companies must be included in the public deed. The excerpt of the corporate deed must be registered with the Commercial Registry of the company's domicile within 60 days of the deed (Art. 354). Failure to execute the public deed of incorporation or modification, or to register it with the Commercial Registry in a timely manner, results in nullity among the partners (Art. 355 A). Likewise, any change whose excerpt has not been duly entered in the Commercial Registry shall not be effective either with regard to the partners or with regard to third parties (Art. 361). By virtue of the characteristics of the corporate regime, through which it is established that the creation or modification of the corporate deed is not enforceable against third parties in cases where the deed has not been registered with the Commercial Registry, the relevant information is considered to be accurate and updated in a timely manner.

CT224. *Criterion 24.6* – The UAF may request information on the BO of legal persons when these turn out to be customers on the basis of the data gathered by FIs whose obligation is to identify the BO of all customers who are LPs (UAF Circular 57), by requesting a declaration with sufficient identification data of their BO (paragraph 2 (a)). For the latter, FIs are instructed to use information available from open sources such as the Commercial Registry, DO, CMF database, and private providers of corporate information. All information obtained in compliance with the obligations established in UAF Circular 57 must be incorporated into the CDD register and must always be available to the competent authorities. (Paragraph 2 (e))

CT225. However, beyond the obligation of the FI to obtain information on the BO of its customers that are LPs, there are no provisions to guarantee that the commercial company itself obtains information on its BO and that such information is located in a specific place in the country, or that an authority determines it in a timely manner through the mechanisms indicated in this criterion. In addition, it is not an obligation on DNFBBPs.

CT226. *Criterion 24.7* – FIs must obtain the information of the BO through a declaration, which is available to the UAF. Paragraph 2 (b) of UAF Circular 57 states that the identification procedure shall be carried out at least once a year, or at shorter intervals if deemed necessary by the FI. FIs

must communicate to their customers that are legal persons, the obligation to inform about any change with respect to their BO. However, there are no other provisions or mechanisms requiring all types of legal persons to keep accurate and up-to-date information on their BO. In addition, DNFBPs are not required to identify BO in their business relationships.

CT227. *Criterion 24.8* – (a) Paragraph 2 (g) of UAF Circular 57 provides that a person in a relevant position at management level and a legal representative in Chile must be identified and be responsible for obtaining and providing the UAF with all the information on the BO. In addition to the duty to reply to information requests which may be issued by the law enforcement authorities in the context of an investigation, there are no provisions requiring natural persons resident in the country to be authorised by the company to provide all the information on the BO to the competent authorities.

(b) All the information obtained on the customer that is a LP and the BO of the FIs must always be available to the competent authorities (UAF Circular 57, paragraph 2 (e)). However, there are no provisions for DNFBPs.

(c) Basic information on legal persons is available in various publicly accessible databases and can be accessed remotely by the competent authorities. (Information from the SII, Official Gazette, Civil Registry Service, real estate registrars). However, there are no such provisions for obtaining information on BO.

CT228. *Criterion 24.9* – No provision is made to ensure that all persons, authorities and entities mentioned in this R., and the company itself (or its directors, liquidators or other persons involved in the dissolution of the company), must keep the information and records referred to for at least five years from the date on which the company is dissolved or otherwise ceases to exist, or five years from the date on which the company ceases to be a customer of the professional intermediary or financial institution.

CT229. *Criterion 24.10* – Article 19 of the CPC establishes that all State authorities and bodies must carry out the proceedings and provide, without delay, the information required by the MP and the courts of criminal jurisdiction. For their part, the police authorities will be auxiliaries of the MP in investigative tasks, and would therefore also have access to the information held by the MP (79 subparagraph 2 of the CPC), and the UAF has the BO information provided by FIs.

CT230. *Criterion 24.11* – Legal entities cannot issue bearer shares or bearer share certificates. Shares shall be registered, and their subscription shall be recorded in writing in the manner determined by the Regulations of the Law. (Art. 12 of Law 18.046 on SA). The company's equity must be set out precisely in the bylaws and shall be divided into a certain number of registered shares. (Art. 17 of Law 20.190 on SPA, which amends Art. 434 of the CCOM with respect to SpA).

CT231. *Criterion 24.12* – The Chilean corporate regime does not allow for the possibility of nominee directors and shareholders.

CT232. *Criterion 24.13* – The obligation to identify the BO provided for in Circular 57 is applicable to FIs in their capacity as RIs, which in the event of non-compliance may be sanctioned by the UAF, under Title II “On infractions and sanctions” of Law 19.913. Failure to comply with the instructions issued by the UAF will be considered a minor infraction, the penalties for which are: a) warning, and b) a fine of up to the equivalent of 800 Development Units—USD 32,250 as of November 30, 2019. (arts. 19 and 20) Thus, the sanctioning framework foreseen for non-compliance with the identification of the BO is proportional and dissuasive.

CT233. With regard the non-compliance of the obligations of registration of LPs basic information, the sanction provided is the lack of effects against third parties. In the case of the provisions on the accounting records keeping, as well as filing forms for tax purposes to the SII, the penalties established by the Tax Code may be applied. Notwithstanding this, deficiencies related to the scope of the obligation to identify BOs impact the compliance of this criterion.

CT234. *Criterion 24.14* – Requests from competent authorities of a foreign country for proceedings to be carried out in Chile, which could include requests for basic information, shareholders and BO, shall be sent directly to the MP who shall request the intervention of the Judge of Guarantee of the place where they are to be carried out, when the nature of the proceedings makes it necessary in accordance with the provisions of Chilean law (Article 20 bis of the CPC). Likewise, Chilean authorities may provide cooperation to their foreign counterparts in the areas in which they have jurisdiction (see criterion 40.1).

CT235. The UAF may share, through the channels established for all FIUs, all the information obtained in the performance of its functions, which would include information gathered on basic information on a LP, its shareholders and its BO (Article 2.g AML/CFT Law). Chilean authorities reported that the above-mentioned information is available in publicly and remotely accessible databases, so that it can also be directly consulted by authorities in other countries.

CT236. In addition, Chile has signed the OECD Convention on Mutual Administrative Assistance in Tax Matters. This Convention facilitates international cooperation for a better operation of national tax laws. The SII uses the Common Reporting Standard (CRS) of the Organization for Economic Cooperation and Development (OECD), through which all FIs of the jurisdictions obtain information on nationals of the countries adhered to the Convention and exchange it annually and automatically with other jurisdictions that belong to this network. However, there are still significant concerns regarding the collection of complete information on basic, shareholder, and BO information on legal persons.

CT237. *Criterion 24.15* – The exchange of information carried out by the UAF is subject to review in the framework of the exchanges carried out through the Egmont Network. However, other competent authorities do not monitor the quality of assistance they receive from foreign counterparts in response to requests for basic or BO information.

#### *Weighting and Conclusion*

CT238. Chile has a corporate regime that requires basic information on legal persons and their public registry. With respect to BO, Chile established an obligation for FIs to identify BO of customers that are LPs. Notwithstanding this, there are a number of significant deficiencies, including the following: Beyond the obligation of the FI to collect information on the BO of customers that are LPs, there are no provisions to ensure that the corporation itself gathers information on its BO and that such information is located in a specific place in the country, or that an authority determines it in a timely manner through the mechanisms indicated in this criterion; there are no other provisions or mechanisms that require all types of legal entities to keep the information on their BO accurate and updated; without prejudice to the duty to respond to information requests that may be issued by law enforcement authorities in the framework of an investigation, there are no provisions requiring natural persons resident in the country to be authorised by the company to provide all information on the BO to the competent authorities; there

is no obligation for DNFBPs to identify the BO; deficiencies relating to the scope of the obligation to identify BO impact on the possibility of applying sanctions for non-compliance with the requirements of the standard; no indication exists that other competent authorities are monitoring the quality of assistance they receive from foreign counterparts in response to requests for basic information or BO. **Recommendation 24 is rated Partially Compliant.**

#### *Recommendation 25 – Transparency and Beneficial Ownership of Legal Persons*

CT239. Chile's 2010 MER rated former R.34 NC, as there was no control over domestic or foreign trusts and there was no registry of trusts.

CT240. *Criterion 25.1*– a) In accordance with Articles 733 and subsequent articles of the CC, the creation of fiduciary ownership—called trust—is provided for subject to the future obligation of passing said ownership to another person, provided that a certain condition has been met. A trust cannot be created, but only over the totality of an inheritance or over a certain quota thereof, or over one or more specific properties. The property in trust does not constitute a separate fund and continues to be part of the settlor's estate, and since it is a lien on the property, such act must be recorded as a separate entry in the public property and commercial registries. Therefore, the trust concept established in the Chilean CC is not in line with the provisions of Article 2 of the Hague Convention on the Law Applicable to Trusts and on their Recognition. Law 20.880 creates an act called a blind trust, applicable to certain authorities and officials who must declare their assets publicly and subject to conditions, to delegate to third parties the administration of certain assets over which they continue to preserve the ownership.

b) Not applicable.

c) Not applicable. Chile does not have professional trustees.

CT241. *Criterion 25.2* According to UAF Circular 57, FIs must identify the BO of customers who are legal arrangements and keep the records for a minimum period of 5 years and make them available to the UAF when required. Although UAF Circular 49 does not explicitly provide for the CDD obligation for customers who are foreign legal arrangements, it establishes that RIs are required to apply CDD measures to all customers and keep them up to date. Consequently, CDD applies to these entities as to any customer.

CT242. Additionally, foreign trusts that are valid in Chile must be registered before the Internal Revenue Service through a natural person with domicile in the country, with the following information: a) Legal name; b) Business name; c) Type or legal nature; d) Country, address and date of incorporation; e) Country or countries of tax residence; f) Tax identification number. The incorporator(s), trustee(s) and beneficiary(ies) must also be identified. The representatives of foreign trusts must update any modification related to the identity, ownership, and other data required by Circular No. 31 of the SII.

CT243. *Criterion 25.3* – There are no specific obligations for foreign fiduciaries (or their representatives) to disclose their status to RIs when establishing a business relationship or when conducting an occasional transaction.

CT244. *Criterion 25.4* – Since Chilean law does not provide for the creation of trusts, persons acting in Chile as trustees (or representatives) of foreign trusts would have no enforceable means to oppose the obligation to provide information on the trust (including information on assets held or information on the BO) to the competent national or foreign authorities, FIs or DNFBPs.

CT245. *Criterion 25.5* - The competent authorities are empowered to access information from reporting institutions and other entities (such as the SII), including all information collected on foreign trusts (art. 180, para. 3 of the CPC).

CT246. *Criterion 25.6* – The competent authorities are empowered to cooperate at the international level to exchange relevant information upon request or spontaneously, including all available data on basic, BO and shareholder information. (Refer to the analysis of Recommendations 36 – 40)

CT247. *Criterion 25.7 – 25.8* Refer to the analysis of criterion 25.1 a)

#### *Weighting and Conclusion*

CT248. Chilean law does not contemplate the concept of trust in line with the provisions of Article 2 of the Hague Convention on the Law Applicable to Trusts and on their Recognition, and therefore some elements are not applicable to the country. However, foreign trusts can have an effect in Chile, and, in that sense, the legislation covers several elements required by the criteria. In this regard, although there is no explicit obligation to require that all information on foreign legal arrangements be accurate and kept up to date, RIs must conduct CDD and maintain such data on all their customers, and therefore these arrangements are also covered, and the respective measures apply to them. Additionally, foreign trusts must register with the SII and keep the respective information updated. However, the country still has some minor deficiencies, as it does not yet have specific obligations for foreign fiduciaries (or their representatives) to disclose their status to RIs when establishing a business relationship or when conducting an occasional transaction. **Recommendation 25 is rated Largely Compliant.**

#### *Recommendation 26 – Regulation and Supervision of Financial Institutions*

CT249. In the 2010 MER, Chile was rated LC in the former R.23. At that time, it was determined that there was no express prohibition for criminals to be shareholders, directors or managers of entities that provide fund transfer and foreign exchange services operating outside the regulated exchange market.

CT250. *Criterion 26.1* – The UAF is the body with authority to regulate and supervise FIs in AML/CFT matters. These powers emerge from Article 2 (f) of the AML/CFT Law. Meanwhile, prudential supervision of FIs is carried out by the CMF, with the exception of the pension fund management sector, which is supervised by the Superintendence of Pensions (SP). It should be noted that as part of the prudential supervision of their regulated sectors, the CMF and SP can also verify compliance with AML/CFT regulations. (Law 21.000, Law 21.130 y DL 3500 SP).

CT251. *Criterion 26.2* – Institutions in the banking, securities and insurance sectors, as well as payment card issuers and operators, require authorisation to operate from the CMF. The applicable regulatory framework is as follows: (i) Articles 2 and 27 et seq. of the LGB (applicable to the banking sector and payment card issuers/operators); (ii) Articles 26, 41, 42 of the LGB, CMF NCG 16, Art. 126 of Law 18.046, Art. 4 under Art. 1 of Law 20.712, Art. 1 of Law 18.876, Arts. 2, 3 and 7 of Law 19.220 and CMF NCG 182 (applicable to the securities sector); and (iii) Art. 251 CMF Decree Force of Law (DFL) and General Rule (NCG) 251 (applicable to the insurance sector). The legislation does not allow for the establishment of shell banks.

CT252. PFMs, meanwhile, are subject to authorisation to operate and registration by the SP, in accordance with the provisions of Art. 126 et seq. of Law 18.046 (Law on Corporations) and Arts. 23 and 94.1 of SP DL 3500. Exchange offices and MTCs are subject to the obligation to register with the UAF, in accordance with Article 40 of the AML/CFT Law.

CT253. Credit unions with assets over USD 16,000,000 (approx.) are subject to obtaining a licence from the CMF. Under such threshold, they must register with the Department of Cooperatives of the Under Secretariat of the Economy and Smaller Companies of the MinEc, under the terms indicated in D.F.L. No. 05 of the Ministry of the Economy, Development and Reconstruction, which establishes the consolidated, agreed upon, and systematised text of the General Law on Cooperatives.

CT254. *Criterion 26.3* – Chile has a legal framework in place to prevent criminals from owning or holding a managerial position in entities in the banking sector, payment card, securities, insurance, and PFM issuers and operators. This statement is supported by the following regulations, which determine that those who have been convicted of crimes cannot be granted authorisation to operate: Art. 28 of the LGB (banking sector); Arts. 35, 126, and 129 of Law 18.046 on SA, Art. 26 (g) of the LMV and Art. 7 (f) of Law 19.220 (securities sector); item 3 of CMF NCG 251 (insurance sector); and Art. 24 A of SP DL 3500, and Art. 35 of Law 18.046 on SA (PFM).

CT255. However, the regulatory framework does not seem to cover members, which is appropriate to prevent criminals from also being BOs of such entities. Furthermore, although there are no integrity check provisions applicable to credit unions that are not subject to CMF registration (because they are below the threshold), they must register with the UAF through a registration application process in which they are subject to background review and validation procedures.

CT256. In addition, with regard to exchange offices and MTCs, a criminal background check and other checks are carried out as part of the registration process with the UAF in order to ensure that there are no persons linked to criminal activities.

CT257. *Criterion 26.4* – FIs have an AML/CFT supervisory framework.

(a) Institutions in the banking, securities and insurance sectors are subject to AML/CFT supervision by the UAF, on the basis of its role as primary supervisor in this field. These sectors are also under the prudential supervision of the CMF, in its capacity as the natural regulator, which can also develop consolidated group supervision for AML/CFT purposes.

(b) With regard to other FIs, they are subject to AML/CFT supervision by the UAF, which applies a RBA for this purpose in line with the provisions of its risk matrix.

CT258. *Criterion 26.5* – With respect to the frequency and depth of internal and external AML/CFT supervision of financial institutions or groups, the following is mentioned:

(a) The frequency of supervision by the UAF is determined by sectoral risks, and within each sector by individual risks, in accordance with the individual profile of each RI of the UAF. The depth of the supervision is determined by the supervision programmes, which are specific to each sector, in view of its business dynamics and the risks involved.

(b) As regards consideration of the ML/TF risks in the country, authorities stated that the findings of the NRA form part of the supervision risk matrix, which in turn serves as the basis for defining the PAF. Other risk studies (e.g. legal persons, free zones, etc.) are also considered.

(c) With regard to consideration of the characteristics, diversity and number of FIs, authorities pointed out that UAF supervisions are based on a risk matrix which identifies, within all registered

RIs, the financial sectors of greater or lesser ML/TF risk and that, in this respect, analysis of the number of agents existing for each sector, and the ML/TF risk profile of each RI, is particularly relevant.

CT259. *Criterion 26.6* – The UAF regularly reviews the assessment of the FIs' ML/TF risk profile, and also when there are significant events or developments in the management and operations of the financial institution or group. The UAF has an inter- and intra-sectoral matrix and also evaluates the maturity of each RI, so there is permanent monitoring of the evaluation of their risk profile.

#### *Weighting and Conclusion*

CT260. Chile has an AML/CFT supervisory system that addresses most of the elements required by the Recommendation. Notwithstanding this, there is no indication that the legal framework to prevent criminals from owning or managing entities also covers associates, and that it is appropriate to prevent criminals from also being BOs of such entities. **Recommendation 26 is rated Largely Compliant.**

#### *Recommendation 27 – Powers of Supervisors*

CT261. The 2010 Third Round MER of Chile rated former R.29 LC, pointing out that the SVS and the SP had not issued sanctions in ML/TF matters upon their RIs. Additionally, it was concluded that the supervision tasks of the SP were limited to the first quarter of 2009.

CT262. *Criterion 27.1* – In accordance with Article 2 (f) of the AML/CFT Law, the UAF has the power to give instructions to its RIs for the adequate fulfilment of their AML/CFT obligations, and may at any time verify their execution. This power applies to all agents in all sectors indicated in Article 3 of the AML/CFT Law. Thus, it has powers to monitor and supervise their compliance. It should be pointed out that the UAF is the regulator and primary supervisor in AML/CFT matters of all RIs.

CT263. With regard to the pension sector, Compendium Book IV, Title XI, Chapter II, paragraph II (4), also states that the sufficiency and effectiveness of the AML/CFT system shall be supervised, controlled and evaluated by the SP, in coordination with the UAF.

CT264. For FIs, Title III of Chapter 1–14 of the RAN provides that: *“The adequacy and effectiveness of the policies and procedures on AML/CFT adopted by the institutions are part of the process of monitoring, evaluation, and classification based on the information provided in Chapter 1–13 of the RAN.”*

CT265. As regards CMF's RIs for the securities and insurance sectors, in accordance with its supervisory powers under Article 3 of DL 3538, it is responsible for supervising compliance with the provisions contained in the regulations that it would have issued in a complementary manner, such as CMF Circular 1809 on AML/CFT (for securities), and Article 3 of DFL 251 (for insurance). In particular, according to Article 1 of CMF DL 3538, it shall be responsible for ensuring that the supervised entities comply with the laws, regulations, by-laws and other provisions that govern them, from the time they begin their organisation or activity, as appropriate, until the end of their liquidation; it may exercise the most extensive supervision over all their transactions.

CT266. *Criterion 27.2* – The UAF is empowered to conduct on-site inspections on the RIs and request all the information necessary to verify compliance with all legal and regulatory obligations relating to the implementation and operation of the system for prevention and detection of ML/TF in the RIs.

CT267. As regards FIs under the prudential supervision of the SP, the powers and attributions of such authority are established in Title X of SP DL 3500, which provides that it is responsible for the supervision and control of PFMs (Articles 94.2, 94.4, 94.5, 94.11, 94.16, 94.17, 94.19, and 94.20).

CT268. As regards FIs under the prudential supervision of the CMF, according to Art. 1 of CMF DL 3538 and Art. 5 (7), the CMF has the power to supervise, through its employees or external audit firms, the persons or entities under supervision.

CT269. *Criterion 27.3* – In accordance with Article 2 (a) and (b) of the AML/CFT Law, the UAF may request, verify, examine, and file the information necessary to verify compliance with obligations in this area.

CT270. In addition, the SP is vested with sufficient powers to demand the production of information from its regulated entities, in particular that relevant to monitoring compliance with AML/CFT requirements. The above is provided for in Article 3 (a) of SP DFL 101, which states that the SP may exercise, in general, all the powers that CMF DL 3538 and Law 18.046 on SA and its regulations confer on the current CMF.

CT271. In accordance with the above, Article 5 (18) of Law 21.000 provides that the CMF, as a supervisory body, has the following powers, among others: *“To establish the form, deadlines, and procedures for the persons or entities under supervision to present the information as required by law to be sent to the Commission or disclosed to the public, through magnetic or computer media or in other forms established by the Commission, as well as the form in which the content and details of the information will be made known.”*

CT272. In addition, in the exercise of its supervisory powers, established in articles 94 and 94 bis of SP DL 3500, the SP instructs through administrative acts (regulations or official notices) the production of relevant information for the purpose of carrying out the required supervision.

CT273. With regard to FIs under the prudential supervision of the CMF, pursuant to Article 1 of CMF DL 3538, the CMF is responsible for ensuring that the supervised entities (banks) comply with the laws, regulations, statutes and other provisions that govern them, from the time they begin their organisation or activity, as appropriate, until the end of their liquidation; it may exercise the most extensive supervision over all their transactions.

CT274. For the above purposes, Art. 5 (4) of the aforementioned Decree empowers it to examine without restriction and by the means it deems appropriate all the transactions, assets, books, accounts, files, and documents of such institutions and to request from them or from their administrators, advisors, or staff the record and explanations it deems necessary to obtain information about their situation, resources, the way in which business and investments are managed, the actions of their staff, the degree of security and discretion shown in investing their funds and, in general, any other point that needs to be clarified for the purpose of determining compliance with applicable regulations by the supervised entity.

CT275. Finally, the CMF in its prudential supervision for the securities and insurance sector, pursuant to Art. 5 (4) of CMF DL 3538 has the authority to examine all transactions, assets, books, documents, accounts and files of the supervised entities and their controlling companies, subsidiaries or affiliated companies, and to request all the information and explanations it deems necessary for such purposes.

CT276. *Criterion 27.4* – In accordance with the provisions of Title II of the AML/CFT Law (Articles 19 and 20), if the UAF, in the exercise of its supervisory powers, detects non-compliance with any of the legal obligations or its regulations, it has the following sanctioning powers:

(I) Minor infringements (non-compliance with instructions given in Circulars) punishable by: (i) a warning, and (ii) a fine of up to USD 32,500, which may be increased threefold in the event of recurrence.

(II) Less serious infringements (non-compliance with the obligation to keep records and CTR), which are punishable by: (i) a warning, and (ii) a fine of up to USD 122,000, which may be increased threefold in the event of recurrence.

(III) Serious infringements (failure to send STRs, failure to submit the background information required for the analysis of a suspicious transaction, obligation to register with the UAF, keep this register up to date, and appoint a CO), punishable by: (i) a warning, and (ii) a fine of up to USD 203,000, which may be increased threefold in the event of recurrence.

CT277. In the event of repeated infringements, of any nature, a penalty of up to USD 609,000 may be applied. Chile indicates that it is possible to apply additional sanctions to directors or legal representatives of the non-compliant LP.

CT278. If the SP, without prejudice to the sanctioning power which the AML/CFT Law confers on the UAF in the area of AML/CFT, detects non-compliance with its regulations by the PFMs, including those related to the provisions of Book IV, Title XI, Instructions on AML/CFT, it has sanctioning powers, in accordance with the provisions of SP DFL 101, Title III. Such sanctions may consist of: (i) censorship, (ii) fines in favour of the tax authorities (which may reach approximately USD 600,000), and (iii) revocation of authorisation.

CT279. With regard to FIs under CMF prudential supervision, Title I of Chapter 1–14 RAN on ML/TF Prevention, provides that the provisions of the Chapter are the minimum requirements to be observed by banks for the adoption of an AML/CFT system. Without prejudice to the sanctions that may be imposed in cases of non-compliance, pursuant to Article 19 of the LGB, companies, persons or entities subject to CMF supervision may be sanctioned in accordance with the regulations set forth in Title III of the CMF DL 3538. Sanctions include (i) censorship, (ii) fines in favour of the tax authorities, and (iii) revocation of authorisation.

CT280. With respect to the securities and insurance sector, pursuant to Articles 36 and 37 of CMF DL 3538, this authority may apply sanctions to those persons or entities that breach the laws, regulations, statutes and other rules that govern them, or fail to comply with the instructions and orders it issues.

CT281. Finally, in the case of insurance, Article 44 of DFL 251 establishes the various infractions to which insurance companies are subject, such as (i) counterclaims, (ii) fines in favour of the tax authorities, (iii) suspension of management for up to 6 months, and (iv) revocation of authorisation.

*Weighting and Conclusion*

CT282. All criteria are met. **Recommendation 27 is rated Compliant.**

*Recommendation 28 – Regulation and Supervision of DNFBPs*

CT283. In the 2010 MER of Chile, former R.24 was rated PC because effective control had not been implemented for real estate agents, notaries, and registrars, as well as casinos supervised by the UAF.

CT284. *Criterion 28.1* – In accordance with Article 3 of the AML/CFT Law, casinos are RIs before the UAF.

(a) Casinos are subject to a licence, which is issued by the SCJ. The authorisation, operation, administration, and supervision of the sector, as well as the games of chance developed by them, are regulated by Law 19.995 and RCJ Decree 1722.

(b) The SCJ carries out measures to prevent criminals from owning or controlling a casino, and has a procedure to verify the integrity of the individuals. In accordance with the methodology for evaluating technical bids, when evaluating the background of applicants for an operation licence, a review of the origin and sufficiency of funds is carried out and an analysis is made of shareholders who are legal entities or individuals with more than 5% of the consolidated ownership or who have a controlling capacity. In addition, under Article 40 of the AML/CFT Law, all DNFBPs, including casinos, are required to apply for registration with the UAF, which, according to the authorities, before validating the registration, checks the criminal records and other information held by the UAF in its databases, in order to ensure that there are no persons linked to criminal activities among the persons related to the entity applying for registration. In addition, each change made to the ownership or management structure of the casinos is subject to the same review standards applied during the evaluation of the application for operating licences. (Law 19.995. RCJ Decree 1722)

(c) Casinos are supervised in terms of AML/CFT matters. The supervisory function is carried out by the SCJ's Control Division, jointly with the UAF or individually.

CT285. *Criterion 28.2* – The UAF is the competent authority appointed to regulate and supervise DNFBPs under Article 3 of the AML/CFT Law.

CT286. *Criterion 28.3* – Casinos, real estate brokers, real estate management companies, notaries, and real estate registrars are subject to UAF AML/CFT monitoring measures (cfr. Article 2 (f) and 3 of the AML/CFT Law). However, lawyers, accountants, corporate service providers and dealers in precious metals and stones are not subject to AML/CFT supervision, since they are not considered to be RIs.

CT287. *Criterion 28.4* – (a) The UAF has the power to issue instructions to RIs for adequate compliance with their AML/CFT obligations and may at any time verify their execution, which implies that it has the power to monitor compliance (Article 2 (f) of the AML/CFT Law).

(b) Article 40 of the AML/CFT Law provides that DNFBPs are required to apply for registration with the UAF. The UAF reviews the applications and the relevant criminal records and databases are checked to verify that there are no persons involved in the activities. However, this mechanism is carried out with regard to applications for registration with the UAF, but not with regard to applications for professional accreditation, or to hold a significant or controlling interest or a management position in the DNFBP.

(c) The UAF is empowered to apply sanctions for non-compliance with AML/CFT regulations (cfr. Title II of the AML/CFT Law).

CT288. *Criterion 28.5* – (a) Supervision by the UAF is based on a risk matrix which identifies, within all the registered RIs, the DNFBP sectors with the highest or lowest risk of vulnerability to misuse for AML/CFT purposes. In this regard it is particularly important to analyse the number of agents in each sector, particularly in the real estate agent, notary and registrar sectors, and to determine the number of agents to be audited within each sector in a calendar year, which is linked to the characteristics of these sectors (complexity of the dynamics of their business) and the number of active agents in these sectors. In parallel, the risk matrix also provides information on the level of risk individually per RI, regardless of the DNFBP sector to which it belongs and the number of agents in that sector. Finally, an individual “maturity” component is also considered as a criterion for determining which RIs will be audited, which is related to the risk of non-compliance with the AML/CFT obligations of RIs, measured in terms of a series of factors that monitor the behaviour of the RI once it is registered with the UAF. The procedure for determining the UAF’s PAF, on the basis of the above-mentioned tools, is established in No.2 (B) of the MPF of the UAF’s DFC. Without prejudice to the importance of the UAF’s system of RBA supervision, lawyers, accountants, corporate service providers and dealers in precious metals and stones are not subject to AML/CFT supervision.

(b) The supervisory processes developed by the UAF are based on a risk matrix, which is developed in accordance with the provisions of paragraph (iii) of the MPAE, and which identifies, within all the registered RIs, the DNFBP sectors of greater or lesser risk of vulnerability to misuse for AML/CFT purposes. Without prejudice to the above, it should be noted that the sectors referred to above are not included as RIs, so these elements cannot be applied to them.

#### *Weighting and Conclusion*

CT289. Chile has an AML/CFT regulatory and supervisory system for DNFBPs, which has a risk-based approach. However, lawyers, accountants, corporate service providers, and dealers in precious metals and stones are not subject to AML/CFT supervision, since they are not considered to be RIs. There is also a deficiency with respect to measures to prevent criminals and their associates from being able to obtain professional accreditation, or from holding or being the BO of a significant or controlling interest, or from holding a management position in the DNFBP. **Recommendation 28 is rated Partially Compliant.**

#### *Recommendation 29 – Financial Intelligence Units*

CT290. In the 2010 MER, Chile was rated Largely Compliant in relation to the former Recommendation 26. The factors that influenced the rating were that the legislation did not expressly establish the competence of the UAF to receive STRs relating to TF cases and the absence of unrestricted access by the UAF to financial information, which is protected by bank and tax secrecy, with prior appeal to the Court of Appeal in Santiago.

CT291. *Criterion 29.1* – Chile has the UAF, which is responsible for preventing and deterring the use of the financial system and other sectors of economic activity for the commission of any of the offences of ML and TF, in accordance with Article 1 of the AML/CFT Law. It is also responsible for requesting, verifying, examining and filing the information referred to in Article 3 of the above-mentioned Law (STRs) and, if necessary, sending the results to the MP (Article 2 (a) and last paragraph of the AML/CFT Law). The regulation does not exactly establish the power to “receive”

STRs, but it is important to bear in mind that this function is largely derived from its powers to require the filing of STRs, as well as from the analysis of such information and the RI's duty to report. In addition to this, there are regulations (UAF Circulars) that establish the procedures and modalities in which RIs must submit to the UAF.

CT292. *Criterion 29.2* – (a) The UAF, through the powers conferred on it by Article 2 (a) of the AML/CFT Law, may request, receive, verify, examine and file the disclosures submitted by the RIs.

(b) The SNA registers and informs in accordance with Article 4 of the AML/CFT Law, anyone who carries or transports currency in cash or bearer negotiable instruments, from and to the country in an amount above USD 10,000 or its equivalent in other currencies, called DPTE. In addition, Article 5 of the AML/CFT Law establishes the obligation to make a CTR when cash transactions involving amounts over USD 10,000 or its equivalent in Chilean pesos occur, according to the US dollar exchange rate on the day the operation took place.

CT293. *Criterion 29.3* – (a) Article 2 (a) and (b) of the AML/CFT Law provides that the UAF is expressly empowered to request from RIs, as well as from public agencies, all the background information necessary for the analysis and review of a suspicious transaction that has been reported to the Unit or detected by it in the exercise of its functions.

(b) Article 2 (i) of the AML/CFT Law authorises the UAF to have access—in the form agreed with the senior manager of the respective entity—to the information and records in the databases of public agencies which, on the occasion of the review of a suspicious transaction previously reported to the Unit or detected by it in the exercise of its powers, are necessary and conducive to the development or completion of the analysis of that transaction (...). In the event that any background information is protected by secrecy or reserve, the request must be previously authorised by a Minister of the CA of Santiago.

Furthermore, there are agreements with 23 public and 5 private institutions that enable access to the information they hold on the subject under investigation, as well as access to 16 other public or paid data sources.

CT294. *Criterion 29.4* – (a) The UAF has the power to examine and verify suspicious transactions submitted by the RIs and public bodies. (Art. 2, AML/CFT Law). The products issued by the UAF as part of its operational analysis function are: Financial intelligence reports with indications of ML/TF and related complements which are sent to the MP and the responses to requests for information from the UAF in the framework of ML/TF investigations or predicate offences which the MP conducts by means of confidential letters.

(b) The UAF has a Strategic Intelligence Area, where one of its main roles is to develop methodologies for the detection of patterns and trends that will enable identification of the characteristics of the phenomenon related to ML/TF. The nature of this area is practical, and therefore in addition to generating cross-sectional information and analysis documents to inform the decisions of senior management, it pursues the application of knowledge in tangible and useful products for the development of operational intelligence, all in accordance with Article 9 of UAF RE 227.

CT295. *Criterion 29.5* – The UAF has the capacity to communicate, spontaneously or upon request, the information and findings of the analyses (Article 2, last paragraph of the AML/CFT Law). All the information sent to the MP is carried out by means of a secure computer system for the exchange of information called “Hermes.” This system is an application under a secure https protocol with

authorised access only to the IP of that organisation, which allows certain users of the MP, through an ID and card of coordinates, to download reports after authentication.

CT296. *Criterion 29.6* – (a) The UAF has implemented an Information Security Management System that includes security policies and procedures for the handling, storage, dissemination, protection, and access to information through a protected technological platform, which consists of a set of segmented networks protected by different security elements (firewalls, ips, anti-malware, etc.), of which a subset is protected by a second firewall and without access to the internet.

The high security network area can only be accessed through virtual desktops, and is configured so that the information cannot be extracted, except by authorised users and through software that keeps a record and copy of the extracted information for auditing purposes to the other internal network. The insertion of STRs, CTRs and DPTEs records to the high security network database is carried out through a protected Web Portal, which is accessed using a username and password, which is encrypted.

(b) Within the policies and procedures of the system described, there are: (i) the Security Policy for Access Control, (ii) the User Account Management Procedure, and (iii) the Asset Management Procedure, which establish how to grant and safeguard access and privileges, as well as acceptance minutes that include declarations of responsibility in the handling of information assets. On the basis of the above, there is a scheme for profiling and authorising access to the various databases managed by the UAF, which are restricted and/or enabled only to those expressly specified in the Information Security Policy.

(c) The above-mentioned system establishes, as a whole, the guidelines and procedures for limited access to its facilities and information systems.

The UAF facilities have a system for controlling the entry of personnel by means of a fingerprint recognition system. Movement within the UAF is recorded by security cameras. Regular analyses are made of the vulnerabilities of its technological infrastructure, and efforts are made, and actions implemented to mitigate these vulnerabilities and to have ongoing awareness of the organisation's risk.

With regard to access to the UAF's internal databases on STRs, CTRs and DPTEs, only members of the Financial Analysis Division and the Strategic Analysis area have direct access.

CT297. *Criterion 29.7* – The UAF is an autonomous body with operational, administrative, and economic independence:

(a) It has the authority and capacity to analyse, request and disseminate information. (Art. 2 of the AML/CFT Law, (a), (b) and last paragraph)

(b) Art. 2 (g) and (i) of the AML/CFT Law confers powers on the UAF which have enabled it to sign 28 local agreements in force and 48 international agreements in force.

(c) Being of a decentralised nature it is not subject to any other authority, and in fact it has the staff, organisational structure, and assets necessary to carry out its functions. (Art. 1 of AML/CFT Law)

(d) The UAF has a structure, budget<sup>55</sup> and staff (72 persons) adequate to fulfil its functions. For this purpose, it has its own assets and an annual budget which is agreed during the process of structuring the institutional budget for the following year, contained in the Budget Law.

CT298. *Criterion 29.8* – The FIU has been a member of the Egmont Group of Financial Intelligence Units since January 1, 2005.

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<sup>55</sup> For 2019 the budget of the UAF amounts to 3,726,084 million Chilean pesos (Source: Budget Law 2019, Ministry of Finance).

*Weighting and Conclusion*

CT299. All criteria are met. **Recommendation 29 is rated Compliant.**

*Recommendation 30 – Powers of Law Enforcement and Investigative Authorities*

CT300. In the MER of the Third Round of Evaluations, Chile was rated LC for the former R.27, noting that the investigation of ML/TF is carried out by the ML Investigation Brigade of the Investigative Police with scope throughout the Chilean territory, although only with presence in Santiago and Iquique. It is also pointed out that there is a lack of greater involvement of the Carabineros Police in ML/TF matters. Finally, it was pointed out that there was no coordination between the Carabineros and the Investigative Police in the investigation of ML/TF.

CT301. *Criterion 30.1* – Pursuant to Art. 83 of the CPR and Art. 1 of Law 19.640, it is provided, respectively, that the MP, in its capacity as an autonomous and hierarchical agency, shall exclusively direct the investigation of the events that constitute a crime and, if appropriate, shall exercise public criminal action as provided by law. In this regard, the MP may issue direct orders to the Law Enforcement and Security Forces during the investigation.

CT302. The MP has specialised units that advise the National Prosecutor and the prosecutors who conduct criminal investigations, in accordance with Art. 17 (c) of Law 19.640. Likewise, the MP is empowered by Art. 83 of the CPR to issue direct orders to Law Enforcement and Security Forces during the investigation. In this sense, it directs the investigation carried out by the various police teams (Carabineros / PDI / DIRECTEMAR).

CT303. *Criterion 30.2* – According to Law 19.640, the criminal action lies with the MP and therefore constitutes a single unit for the substantiation of the criminal investigation. The specialised units of the MP, like the police authorities, have the power to carry out financial investigations of assets (asset investigations).

CT304. *Criterion 30.3* – In accordance with Art. 83 of the CPR, Art. 1 of Law 19.40 and Art. 157 of the CPC, the MP is empowered to identify and trace property that are or may be subject to confiscation, or that are presumed to be the proceeds of crime. In addition, under Art. 32 of the AML/CFT Law the MP is empowered to request the judge of guarantee to order any real precautionary measure that is necessary to prevent the use, exploitation, advantage or destination of any kind of goods, securities or money from the crimes that are the subject-matter of the process.

CT305. *Criterion 30.4* – Chile does not provide for competent authorities—other than LEAs—invested with the responsibility of carrying out financial investigations of predicate offences.

CT306. *Criterion 30.5* – The analysis contained in criterion 30.3 is applicable to the Specialised Anti-Corruption Unit.

*Weighting and Conclusion*

CT307. All criteria are met. **Recommendation 30 is rated Compliant.**

### *Recommendation 31 – Powers of Law Enforcement and Investigative Authorities*

CT308. In its Third Round MER, Chile was rated C for former R.28.

CT309. *Criterion 31.1* – (a) In accordance with paragraph 3 of Art. 180 of the CPC, the MP, which directs the criminal investigation, is empowered to request information from any person or public official, without excuse, except for specific exceptions in the law. The RIs, notaries, archivists, and CBRs, and other agencies, authorities, and public officials, must carry out the actions and proceedings and provide the reports, background information and copies of instruments requested of them. For its part, the UAF, in accordance with Art. 2 (b) of the AML/CFT Law, is empowered to require RIs to submit background information which, upon review of a suspicious transaction, may be necessary and conducive to the development and completion of the analysis of that transaction.

(b) According to Art. 181 of the CPC the investigation shall be carried out in order to record and ensure everything that will lead to the verification of the event and the identification of its participants. Thus, the condition of the persons, things or places shall be recorded, as well as and the description of the place where the event took place. For their part, Arts. 204 to 214 of the same law, generally regulate the practice of the procedure to enter and search places that are freely accessible to the public, closed, special, among others.

(c) Art. 181 of the CPC provides, within the scope of investigative activities, for the identification of witnesses to the event under investigation and the recording of their statements.

(d) Art. 217 of the CPC regulates the seizure of objects and documents related to the event under investigation, which may be subject to the penalty of confiscation and those that may serve as evidence. Seizure is appropriate following a court order issued at the request of the MP when the person holding the property does not voluntarily deliver it, or if the request for voluntary delivery could jeopardise the success of the investigation.

CT310. *Criterion 31.2* – (a) Under Art. 33 (a) of the AML/CFT Law, in relation to Art. 25 of Law 20.000, the use of undercover agents and informants is permitted.

(b) Art. 33 (a) of the AML/CFT Law empowers the competent authorities to intercept communications.

(c) Art. 33 (a) of the AML/CFT Law and Art. 24 of Law 20.000 allow, in addition to the interception of communications, the interception of other technical means, which includes computer systems.

(d) Art. 33 (a) of the AML/CFT Law allows controlled delivery or operation.

CT311. *Criterion 31.3* – (a) In accordance with Arts. 9, 19, 80 and 236 of the CPC, in addition to Art. 154 of the LGB, the MP is empowered to issue summonses and identify the persons who control bank accounts, subject to judicial authorisation.

(b) The competent authorities have a procedure under Art. 33 (a) of the AML/CFT Law, which provides for the power to conduct proceedings without prior knowledge of the person affected and the lifting of bank secrecy. In addition, the UAF has the power to request information that is protected by secrecy or confidentiality, subject to authorisation by a Minister of the CA without a hearing and without the need for intervention by third parties arising from a suspicious transaction under Art. 2 (b). Likewise, the MP has direct access to the tax information of the taxpayers, through an interconnection with the SII that does not require any type of judicial authorisation; in this sense, the MP has direct access by indicating the Unique Role of Cause (RUC) of its investigation, since the information can only be used in the framework of a criminal investigation.<sup>56</sup>

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<sup>56</sup> The interconnection with the SII has undergone several changes. As of December 2019, Chile indicates that prosecutors have the possibility of accessing the same information that a tax inspector has access to.

CT312. *Criterion 31.4* – Art. 2 of the AML/CFT Law provides that the MP may request the UAF to send any information in its possession that may be necessary for the AML/CFT investigations it conducts, whether initiated ex officio, by a complaint or by a lawsuit, whatever stage they may be at. Nevertheless, this provision makes no reference to the other associated predicate offences or to TF as defined in the criterion. Without prejudice to this, in accordance with paragraph 3 of Art. 180 of the CPC, the MP in charge of an investigation is empowered to request information from any person or public official, without any excuse whatsoever to provide it, and it is therefore considered that it may require such information.

#### *Weighting and Conclusion*

CT313. All criteria are met. **Recommendation 31 is rated Compliant.**

#### *Recommendation 32 – Cash Couriers*

CT314. In the 2010 MER, former Special Recommendation IX was rated PC, on the grounds that the authorities were not empowered to withhold transported funds where there is no declaration or where a false declaration is made, and that the level of coordination between the agencies empowered in this area was inadequate.

CT315. *Criterion 32.1* – Art. 4 of the AML/CFT Law provides for a declaration system that refers to the duty to inform on all persons entering or leaving the country with cash or bearer negotiable securities above USD 10,000 or its equivalent in other currencies. The information is collected by the SNA and entered by its officials in the UAF's online web system, through the page [www.uaf.cl](http://www.uaf.cl).

CT316. The SNA has issued specific regulations governing the related procedures: SNA Official Circular 561, SNA Official Circular 376, SNA Official Circular 119, SNA Official Circular 142, SNA Official Circular 87, SNA Official Circular 143, SNA Official Circular 249, SNA Official Circular 228, SNA Official Circular 300, SNA Resolution 5535.

CT317. *Criterion 32.2* – The Chilean authorities require the declaration of cash or bearer negotiable instruments from and to the country in amounts exceeding USD 10,000 or its equivalent in other currencies. Chile has implemented a declaration system for all travellers carrying amounts above the threshold of USD 10,000 or its equivalent in other currencies.<sup>57</sup> The procedure for implementing Articles 4 and 39 of the AML/CFT Law corresponds to SNA Official Circular 87 and SNA Official Circular 228.

CT318. *Criterion 32.3* – Chile has implemented a system of declaration, not of disclosure.

CT319. *Criterion 32.4* – In accordance with Art. 24.1 of LOSNA, any customs employee, within the Primary Jurisdiction Zones and special surveillance perimeters in the exercise of his or her functions, may adopt and arrange for the measures he or she deems appropriate to ensure the accuracy of the operations to be performed. Thus, when a customs official discovers a false declaration, a non-voluntary statement is generated, and the officials have the power to require

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<sup>57</sup> The duty to declare when leaving the country through the land border could be affected by the creation of integrated border control systems (as is the case of the Integrated Cross-Border Control System between Chile and Peru), where control is carried out only when entering the country.

additional information from the passenger on aspects such as: The origin of the money, the reason for bringing the currency into or out of the country, the intended use of the money, among other inquiries to determine the legality of the money. As for the absence of declaration, this assumption does not apply because all persons entering Chilean territory are required to submit the corresponding declaration.

CT320. *Criterion 32.5* – Art. 39 of Law 19.913, first paragraph, provides that a person who carries or transports cash currency or bearer negotiable instruments and has not declared them shall be subject to a fine in favour of the tax authorities of up to 30% of the cash currency or of the value of such undeclared currency or instruments, and shall take into special consideration the amount of the undeclared values.

CT321. *Criterion 32.6* – Art. 4 of the AML/CFT Law provides that the information provided in the transport and carrying declarations must be collected directly by the SNA and forwarded by it to the UAF, which has online access to all the DPTEs entered by Customs into the online declaration system, in accordance with the operational provisions of the Cooperation and Joint Work Agreement between the SNA and the UAF of October 27, 2011.

CT322. *Criterion 32.7* – Coordination actions between the SNA and other related authorities is conducted through a permanent coordination committee within the framework of the Action Plan of the AML/CFT National Strategy. In this regard, the SNA has developed coordination actions with the Ministry of the Interior, the Treasury General of the Republic, Carabineros, PDI, MP and the UAF, through which issues related to the Customs-SSAG sworn declaration system, operational procedures, coordination and review of aspects related to DPTEs by border, control of assets by border, creation of forms, receipt and transfer of values resulting from the withholding, procedures for the deposit of currency withholdings and settlement of fines, among others, have been addressed. In particular, the SNA and the UAF have signed the Cooperation and Joint Work Agreement which contains the operational work of the declaration system.

CT323. *Criterion 32.8* – In the case of ML/TF suspicion, the SNA is empowered to submit STRs to the UAF and, in the case of failure to comply with the duty of declaration, under Art. 39 of the AML/CFT Law the SNA may apply a fine of up to 30% of the cash or value of such undeclared currency or instruments, for which it may withhold up to 30% of the cash or 100% of the undeclared bearer negotiable instruments. In addition, in the event of any opposition to the withholding, the officials of the SNA may directly request the assistance of the law enforcement authorities, in accordance with the provisions of Art. 24 and Title VI, both of its organic law. This information is shared with the UAF (Art. 4 of Law 19.913), which allows collaboration when there is evidence of ML or TF in the investigation.

CT324. In addition, the SNA has other legal tools that allow it to initiate a judicial process if it detects signs of ML in cash transport operations. In this regard, the SNA has the duty to report, in accordance with the provisions of Articles 175, paragraphs (b) and (c) and 176 of the CPC, which provides that within 24 hours of becoming aware of the matter, they must make the background information available to the MP for investigation. However, beyond the measures that can be adopted by the competent authorities indicated in the previous paragraph, with regard to the sub-criteria the following is indicated:

(a) There are no provisions that provide for the possibility of withholding, for a reasonable time, cash or negotiable instruments when there is suspicion of ML/TF or predicate offences, in order to determine whether evidence of ML/TF can be found.

(b) In case of false declaration, STRs may be issued and the above-mentioned fine applied, although the possibility of withholding the cash or negotiable instruments is not expressly provided for.

CT325. *Criterion 32.9* – The SNA can exchange this information with other customs authorities under the Customs Cooperation Agreements. Moreover, since this information is also available to the UAF, it can be sent or exchanged with its foreign counterparts, as detailed in the analysis of R.29.

(a) Art. 39 of the AML/CFT Law, in the third paragraph, indicates that when a withholding is made, it must be notified to the person in the same act, making express and written mention of the facts that constitute it, the rules infringed, the identification of the person to whom the withholding has been made, the penalty that may be imposed, and other basic facts that gave rise to the withholding. The document certifying the withholding contains data on the amount of currency or bearer instruments declared, disclosed or detected and the identification data of the holder or person making the declaration.

(b) The declaration system allows cooperation along the lines of the criterion when false declarations are made.

(c) There are no rules allowing information to be withheld in the case of suspicion of ML/TF.

CT326. *Criterion 32.10* – The Cooperation Agreement in force between the SNA and the UAF contains clauses concerning the confidentiality of information collected through DPTEs. The information collected by the UAF can only be used or shared with its foreign counterparts, within the framework of an intelligence process as provided for in Art. 2 (g) of the AML/CFT Law. There are no undue restrictions on (i) trade payments between countries for goods and services, or on (ii) the free movement of capital.

CT327. *Criterion 32.11* – (a) Art. 39 of the AML/CFT Law provides for the application of a fine for failure to declare, which is considered proportionate and dissuasive. For the rest of the cases, reference is made to the analysis of sanctions made in Criteria 3.9 and 5.6 where the deficiencies indicated in said criteria affect compliance with this R.

(b) Chile can implement measures in line with R.4 which would allow the confiscation of such currency or bearer negotiable instruments.

#### *Weighting and Conclusion*

CT328. Chile has a declaration system for incoming and outgoing cross-border transportation of currency and bearer negotiable instruments when the established threshold is exceeded. The SNA participates in this system and can send STRs to the UAF if evidence of ML/TF is found in these declarations. Chile may also impose a fine of up to 30% of the currency in cash or of the value of these undeclared currencies or instruments in favour of the tax authorities. In turn, the SNA coordinates with the competent authorities in the area of cash transportation, among other relevant measures. Notwithstanding the above, there are no provisions that provide for the possibility of withholding, for a reasonable time, cash or negotiable instruments when there is suspicion of ML/TF or predicate offences, or in case of a false declaration, in order to determine whether evidence of ML/TF can be found. There are no rules allowing information to be withheld in the case of suspicion of ML/TF. Recommendation 32 is rated **Largely Compliant**.

#### *Recommendation 33 – Statistics*

CT329. In the 2010 MER, Chile was rated LC in former R.32 considering that there was no evidence of regular reviews of the effectiveness of their system to combat ML/TF, a lack of accurate statistics on seizures and confiscations in the area of AML/CFT and some deficiencies in maintaining information on international legal assistance.

CT330. *Criterion 33.1* – (a) The UAF maintains statistics on STRs received and reported, with a detail by RI. The statistics can even be verified on a monthly basis. It also produces an annual statistical report containing: Registration data on RIs, STRs received and disseminated, exchange of information between UAF-MP, CTRs, DPTEs, on-site supervisions, sanctioning processes, training and dissemination activities, national and international cooperation. All this information is available on their website.

(b) The MP, through ULDDCO, keeps a consolidated record of investigations, prosecutions, and convictions for ML/TF. In the case of judicialized investigations, the register includes data from 2008, while the register of prosecutions includes data from 2011. Finally, the consolidated register of convictions for ML/TF includes data from 2007.

Since 2016 the UAF and the MP have maintained a statistical quadrature system which provides for the consolidation in joint registers of financial intelligence reports issued by the UAF, reports supplementing reports sent in advance, and information requests made by the MP.

The PDI records in the BRAIN system ML/TF investigations, particularly with regard to investigation orders and specific instructions from the MP and other judicial authorities, a system which also acts as a relational and criminal analysis base in support of the investigative work.

(c) Statistics on goods seized and confiscated in the country are managed by the PDI, Carabineros, and SNA in coordination with the MP, based on their competencies.

With regard to property subject to confiscation on the basis of the sentences passed for ML/TF (2007–2018), the UAF is systematising the information, which has led to a process of assessment of the confiscation penalties contained in these sentences, which makes it possible to roughly determine the economic value of the property that a court has found to have been laundered in the country.

(d) From February 1, 2018, the MP assumed the role of Central Authority of all the conventions in force, bilateral and multilateral, of mutual legal assistance in criminal matters, for which reason a centralised MLA requests statistics is maintained. In addition, the UAF keeps monthly records of international requests or information exchanges made/sent to/from other foreign FIUs, through the Egmont Group network.

#### *Weighting and Conclusion*

CT331. All criteria are met. **Recommendation 33 is rated Compliant.**

#### *Recommendation 34 – Guidance and Feedback*

CT332. In the Third Round of Evaluations MER, Chile was rated LC for the former R.25. Although this report acknowledges the feedback work done by the competent authorities, it was indicated that the UAF had legal constraints in providing information on the outcome of its communications to the MP. Likewise, the need for feedback on the quality of the reports and for information on typologies and new methods linked to specific sectors was mentioned.

CT333. *Criterion 34.1* – As the main regulator in AML/CFT matters, and in order to provide feedback to its RIs, the UAF designed and implemented since 2015, the “National Training Plan based on AML/CFT Risk” to strengthen the National AML/CFT System in Chile, through the

dissemination, guidance and feedback of relevant information on these crimes, which allow target entities to acquire the necessary knowledge to comply with current AML/CFT regulations.

CT334. In addition, the UAF, in compliance with Art. 2(e) and Art. 3, paragraph 3, of the AML/CFT Law, has drawn up “Guidelines on ML/TF Red Flags” as an input for its RIs, to enable them to adopt the necessary preventive measures to avoid their occurrence and/or to report them to the UAF.

CT335. In addition, this authority has prepared, together with the MP, the “Report on Typologies and Red Flags of ML in Chile,” which analyses the convictions for the crime of ML that have been handed down by the courts since 2007, identifying: Economic sectors that have been used for money laundering in the country; mechanisms used to commit this offence; red flags; typologies detected; predicate offences identified; typologies most frequently used by money launderers; type of person and legal arrangement used by the money launderers and financial products used.

CT336. In turn, the UAF provides feedback on STRs, for example, instructions given to its RIs concerning the legal duty to send STRs through Ordinary Official Letter 428. In addition, bilateral meetings are held with RIs and feedback plans are drawn up on the quality of STRs for sectors such as banks, PFMs, and remittance companies. Without prejudice to the above, and regardless the important feedback measures developed by the UAF for the many regulated sectors in the area of AML/CFT, the feedback from the regulators and prudential supervisors with AML/CFT responsibilities is more limited.

#### *Weighting and Conclusion*

CT337. In its capacity as the main AML/CFT supervisor, the UAF has developed outreach activities with its RIs and provides guidance and feedback on the AML/CFT measures of its RIs, including on the quality of the STRs. Without prejudice to the above, and regardless of the important feedback measures developed by the UAF for the many regulated sectors in the area of AML/CFT, the feedback from the regulators and prudential supervisors with AML/CFT responsibilities is more limited. **Recommendation 34 is rated Largely Compliant.**

#### *Recommendation 35 – Sanctions*

CT338. In the 2010 MER, Chile was rated PC for former R.17. On that occasion it was determined that, although the supervisory bodies had sanctioning powers, their effective and dissuasive application had not been effectively verified in the area of ML/TF with regard to the SBIF, SVS and SP. In addition, it was pointed out that in the case of institutions providing money transfer and foreign exchange services outside the regulated exchange market, the sanctions that the UAF could impose for compliance with AML/CFT rules did not include the power to withdraw, restrict, or suspend licences.

CT339. *Criterion 35.1* – Chile has a sanctioning regime applicable to RIs that do not comply with AML/CFT obligations. The authority with primary sanctioning power is the UAF, in accordance with Art. 2 (j) and 19 of the AML Law. The scope of the sanctioning regime is established in Title II of the AML/CFT Law, and provides for a range of sanctions whose application varies according to whether the offences are minor, less serious or serious. The available sanctions are a warning and a fine, in accordance with Art. 20 of the AML/CFT Law, and can be imposed on both natural and legal persons.

CT340. Minor offences are those relating to non-compliance with the instructions of the UAF, for example, rules relating to CDD, PEP, electronic transfers, targeted financial sanctions, and they are subject to warnings and fines of up to 800 Development Units (UF)—approx. USD 32,250, as of November 30, 2019. Less serious offences are those resulting from non-compliance with record keeping and cash transaction reporting obligations for amounts exceeding USD 10,000—or the equivalent in local currency—and are subject to a warning and fine of up to 3,000 UF. Serious offences are those relating to non-compliance with the obligation to report suspicious transactions, or failure to provide supplementary information required by the UAF. These serious offences are subject to a warning and a fine of up to 5,000 UF. In the case of repeated offences, of whatever nature, a fine of up to three times these amounts may be applied. There is repetition when two or more offences of the same nature are committed in a period of 12 months (Art. 20 of the AML/CFT Law).

CT341. In addition, the CMF and the SP have the power to impose sanctions for non-compliance with complementary prudential rules in the area of AML/CFT. These bodies are empowered to apply fines and even revoke licences, in accordance with Art. 36 of the CMF DL 3538 (securities and insurance sector) and Art. 17 of the SP DFL 101 (PFM sector).

CT342. With regard to the sanctioning regime of the UAF, the regulation includes the possibility of applying a warning and a fine. The limit established for the maximum amount of the fine applicable for non-compliance with preventive measures and targeted financial sanctions does not appear to be sufficiently dissuasive. Notwithstanding this, licence revocation sanctions can be applied by prudential supervisors, thus reinforcing the scope of the available sanctioning regime.

CT343. As regards NPOs, they are subject to the supervision of the Ministry of Justice, in accordance with the provisions of Articles 545 to 564 of the Civil Code and in relation to the provisions of Law 20.500. The legislation provides for the cancellation of the legal personality of NPOs, among other reasons, for serious violations of their statutes, which may be pronounced by the competent judicial authority. However, there are no clear procedures for the purpose of enforcing it.

CT344. With respect to DNFBPs, the legislation does not cover lawyers, accountants, trust service providers, and dealers in precious metals and stones, and therefore they are not subject to AML/CFT sanctions.

CT345. *Criterion 35.2* – In accordance with Art. 21 of the AML/CFT Law, in the event that the infraction has been committed by a legal person, the sanctions may also be applied to its directors or legal representatives who have willingly participated in the commission of the infraction. Lawyers, accountants, trust service providers, and dealers in precious metals and stones are not covered by the legislation and are therefore not subject to AML/CFT sanctions.

#### *Weighting and Conclusion*

CT346. Chile has a sanctioning regime applicable to RIs that do not comply with AML/CFT obligations. Notwithstanding the above, the legislation does not cover lawyers, accountants, trust service providers, and dealers in precious metals and stones, and therefore they are not subject to AML/CFT sanctions. With regard to NPOs, the legislation provides for the cancellation of the legal personality of NPOs, among other reasons, for serious violations of their statutes, which may be

pronounced by the competent judicial authority. However, there are no clear procedures for the purpose of enforcing it. **Recommendation 35 is rated Largely Compliant.**

#### *Recommendation 36 – International Instruments*

CT347. In the 2010 MER, former R.35 was rated LC. The grounds justifying the rating indicated that compliance with a requirement for confiscation is possible only if it is provided for in international treaties in force and ratified by Chile; and the offences listed under the criminal law of terrorism do not include all the offences listed in the Conventions that make up the Annex to Art. 2 of the Convention. Likewise, Special Recommendation I was rated PC, on the grounds that there are no internal regulations in Chile to comply with the provisions of UNSCR 1267 (1999) and subsequent resolutions, nor with the provisions of UNSCR 1373, regarding the freezing of terrorist funds, nor their seizure (Art. 8 of the 1999 Convention).

CT348. *Criterion 36.1* – Chile has ratified the relevant international conventions on combating ML/TF on the following dates: The UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances was signed on 20 December 1988, promulgated by DS 543/1990, and published in the Official Gazette on August 20, 1990. The CIRFT was signed by Chile on December 9, 1999 and promulgated by DS 163/2002, published in the Official Gazette on September 13, 2002. The UN Convention against Transnational Organised Crime and its Protocols against the Smuggling of Migrants by Land, Sea and Air and to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (C. Palermo) was signed in 2000 and promulgated by DS 342/2004, published in the OG on February 16, 2005. The UNCAC was signed on December 11, 2003 and ratified on September 13, 2006; promulgated by DS 375/2006, published in the Official Gazette on January 30, 2007.

CT349. *Criterion 36.2* – Chile has implemented the Vienna Convention, the Palermo Convention, the Merida Convention and the Convention on the Financing of Terrorism by incorporating the necessary provisions into its domestic legal system, in particular Law 20.000, Law 19.913, CPC, CP, Law 20.393 and Law 19.906 amending Law 18.314. However, the deficiencies identified in the criminalisation of ML/TF limit the full implementation of the articles of these conventions.

CT350. In particular, the Chilean authorities stated that the national regulations are limited in terms of joint investigations, which is why the international regulations serve as a basis for requesting international cooperation to carry out joint investigation teams or the use of special investigation techniques.

#### *Weighting and Conclusion*

CT351. Chile has ratified the relevant international conventions on combating ML/TF. However, the deficiencies identified in the criminalisation of ML/TF limit the full implementation of the articles of these conventions. **Recommendation 36 is rated Largely Compliant.**

#### *Recommendation 37 – Mutual Legal Assistance*

CT352. In the 2010 MER former R.36 was rated PC. The reasons for the rating indicated that the MLA contained rules that hindered its effective enforcement in respect of the provision of information subject to secrecy or legal reserve. In the absence of a specific treaty, MLA requests involving the confiscation of goods were not regulated. Chile could not comply with international

cooperation requirements to seize, freeze, or confiscate property of equivalent value. There were no mechanisms to avoid conflicts of jurisdiction among several countries in the event of investigation of ML offences in more than one country; likewise, former SR. V was rated PC, based on the fact that there were obstacles to the drafting of cooperation agreements to coordinate confiscation of terrorist property.

CT353. *Criterion 37.1* – Requests from competent authorities of a foreign country for proceedings to be carried out in Chile shall be sent directly to the MP, which shall request the intervention of the Judge of Guarantee of the place where they are to be carried out, when the nature of the proceedings makes it necessary in accordance with the provisions of Chilean law (Art. 20 bis of the CPC). The assistance requested is granted in accordance with the provisions of international conventions or treaties signed.

CT354. *Criterion 37.2* – In accordance with Art. 20 bis of the CPC, the MP is the central authority for all existing bilateral and multilateral conventions on mutual legal assistance in criminal matters. Additionally, in order to expedite the process, the electronic processing of requests for assistance has been developed, and requests are received and sent via e-mail with an electronic signature. This is currently the practice with Argentina, Brazil, Canada, Ecuador, the United States, and Peru.

CT355. Case management is carried out by UCIEX of the MP, where cases are received and referred to the competent public prosecutor's offices for execution, and compliance is monitored. Each case is given a reference number and a virtual folder is maintained with all the background information. In addition, a record is kept of the cases in which the following variables are tabulated: Requesting country, associated crimes, proceedings requested, date of entry, date of referral to Regional Prosecutor's Office, date of response from Regional Prosecutor's Office, date of response to requesting authority, closed or pending case. This allows statistics to be generated and response times to be estimated in accordance with the requested procedures. Cases are prioritised at the request of the requesting authorities.

CT356. *Criterion 37.3* – MLA is not prohibited. National legislation does not provide for grounds for the rejection of requests for assistance, except those considered in the international treaties themselves, without prejudice to the commitment of the MP to provide the broadest assistance possible.

CT357. In addition, Chilean authorities indicated that the requested proceedings are governed by the same rules that regulate the execution of proceedings in national investigations, requiring judicial authorisation for proceedings that imply limitations to the fundamental rights of individuals, such as: Lifting of banking secrecy, precautionary measures, interception of communications, etc.

CT358. *Criterion 37.4* – (a) According to Chile's legal framework, there are no grounds for refusing MLAs on tax grounds.

(b) Moreover, MLA cannot be denied for reasons of secrecy or confidentiality of FIs or DNFBPs. If the information were subject to any secrecy or confidentiality rule, judicial authorisation would be required in order to comply with the request for assistance.

CT359. *Criterion 37.5* – The international conventions and agreements signed by Chile include specific provisions requiring that the evidence or information submitted be kept confidential. Moreover, requests for international assistance are governed by the rules on secrecy contained in

Chilean legislation. In this regard, Art. 182 of the CPC establishes that investigations are always secret to third parties not involved in the procedure (and in specific cases and for limited periods of time even to the participants themselves).

CT360. *Criterion 37.6* – The MP does not require compliance with the requirement of double criminality when the requests do not require judicial intervention due to a possible restriction of individual guarantees in the execution of the request.

CT361. *Criterion 37.7* – Competent authorities proceed with the execution of requests for mutual legal assistance, on the understanding that double criminality is fulfilled if the behaviour is criminalised, regardless of the name of the offence.

CT362. *Criterion 37.8* – Chilean authorities indicated that the rules that regulate the investigation and prosecution of the crimes included in the AML/CFT Law are referred to the rules of Law 20.000. All investigative techniques applicable to the investigation of these offences are available for the execution of requests for international assistance, including the special techniques described in R.31.

#### *Weighting and Conclusion*

CT363. All criteria are met. **Recommendation 37 is rated Compliant.**

#### *Recommendation 38 – Mutual Legal Assistance: Freezing and Confiscation*

CT364. In the MER approved in 2010, former R.38 was rated PC. The elements underlying this rating were that, in the absence of a specific treaty signed by Chile, requests for international assistance involving the confiscation of property were not regulated by any provision in Chilean law. The country was not in a position to comply with international cooperation requests for freezing, seizing, or confiscating property of corresponding value. Nor were there any rules allowing confiscated or seized assets to be shared with other countries, in cases where the confiscation is the direct or indirect result of coordinated actions with the authorities of those countries.

CT365. *Criterion 38.1* – In accordance with the legal framework referred to in R.37, the MP as the central authority shall request the intervention of the JG of the place where the proceedings are to be carried out, when the nature of the proceedings so requires in accordance with the provisions of the law. In this sense, in accordance with Art. 33 (c) of the AML/CFT Law, the possibility of ordering precautionary measures without prior notice to the affected party, and the possibility of seizing and confiscating objects and disposing of the seized property or the proceeds thereof, shall be applicable to ML.

CT366. Likewise, according to the text of Law 20.000, International Cooperation is applied within the scope of agreements or international treaties, signed by Chile. Thus, as part of the Vienna Convention and the Palermo Convention, it can provide assistance in investigations and prosecutions related to ML. In addition, Art. 37 of the AML/CFT Law provides for the possibility of seizing or applying any precautionary measure and confiscating property of an equivalent value.

CT367. *Criterion 38.2* – The country provides the most extensive international cooperation, including in cases of non-conviction-based confiscation. Under the protection of the United Nations

Convention against Illicit Traffic in Narcotic Drugs and Organised Crime (Vienna and Palermo) it can form joint investigation teams that could lead to non-conviction-based confiscation.

CT368. *Criterion 38.3* – (a) The MP is a signatory to the Inter-institutional Cooperation Agreement of Prosecutors and Attorney Generals of AIAMP for the exchange of information, participation in international associations and fora (e.g. work on open sources for asset detection and other information developed in the scope of the REMPM), specific bilateral agreements. In addition, the Vienna and Palermo Conventions allow for coordinated actions at the international level that lead to the coordination of activities for the seizure and confiscation of a property.

(b) The country has mechanisms in place to administer and dispose of seized and confiscated property. Art. 46 of Law 20.000 applicable to ML provides that the confiscated goods will be disposed of by public auction. In turn, Art. 40 of the same Law provides that the instruments or objects seized may be allocated by the JG to a State or private non-profit institution for the purpose of preventing improper consumption.

CT369. *Criterion 38.4* – The country has a domestic legal framework that allows it to share confiscated assets with other countries, including as a result of coordinated actions between law enforcement authorities. There have been cases in which confiscated assets have been shared with other jurisdictions.

#### *Weighting and Conclusion*

CT370. All criteria are met. **Recommendation 38 is rated Compliant.**

#### *Recommendation 39 – Extradition*

CT371. According to the 2010 MER, former R.39 was rated LC, considering that the extradition statistics were not concentrated and that the rulings submitted did not lead to a conclusion on the efficiency of the mutual legal assistance system.

CT372. *Criterion 39.1* – In order to execute extradition requests related to ML/TF, Chile implements the following actions:

(a) As regards the type of ML, Article 48 of Law 20.000 applies by virtue of the AML/CFT Law, under which it is possible to extradite, actively or passively, even in the absence of reciprocity or a treaty on the matter. With regard to TF, there are no domestic provisions that address the requirements of this criterion beyond those contained in the CIRFT.

(b) Moreover, Title VI of the CPC regulates in detail extradition procedures, both active and passive. The UCIEX, as in the case of mutual legal assistance, maintains a system for recording cases of active and passive extradition, whereby the time and procedures required for each case are monitored. In addition, it has a policy for prioritising prosecutions and international proceedings.

(c) Likewise, in order not to unreasonably or unduly restrict the execution of orders, extradition in Chile shall proceed extradition for the purpose of enforcing in the country a final sentence of more than one year's effective imprisonment (Art. 431CPC). When a foreign country requests from Chile the extradition of individuals who are in the national territory and who, in the requesting country, are charged with a crime or sentenced to a term of imprisonment of more than one year, the Ministry of Foreign Affairs shall forward the request and its records to the Supreme Court. (Art. 440 of the CPC.) Thus, the CPC does not establish unreasonable or undue restrictive conditions to extradition.

CT373. *Criterion 39.2* – The Chilean legal framework has no provisions that inhibit the extradition of its own citizens. Thus, procedures in that sense are carried out in accordance with ratified treaties.

CT374. *Criterion 39.3* – Chilean legislation does not establish limitations on extradition processes with respect to the requirement of double criminality. For active extraditions, it is sufficient that the law provides for a sentence of at least one year’s imprisonment (Art. 431 of the CPC) and for passive extraditions that in the requesting country are accused of a crime or sentenced to more than one year’s imprisonment. (Art. 440 of the CPC).

CT375. *Criterion 39.4* – Simplified extradition is provided for in Art. 454 of the CPC, which provides that, if the person whose extradition is requested, after being informed of his or her rights to formal extradition proceedings and the protection afforded by such proceedings, with the assistance of a lawyer, expresses to the Minister of the Supreme Court hearing the case—the court competent to rule on extradition requests at first instance—his or her agreement to be handed over to the requesting State, the Minister shall grant the extradition without further formality.

#### *Weighting and Conclusion*

CT376. Chile can execute extradition requests in relation to ML. However, there are no internal provisions in this regard with regard to TF. With regard to double criminality, this requirement is addressed taking into account that the country considers the time of conviction as a basis for extradition, which is 1 year and not the name of the behaviour. Likewise, according to its legal framework, it establishes a simplified extradition mechanism. **Recommendation 39 is rated Largely Compliant.**

#### *Recommendation 40 – Other Forms of International Cooperation*

CT377. According to the 2010 MER, former R.40 was rated C.

CT378. *Criterion 40.1* – Competent authorities in Chile are empowered to provide international cooperation as requested by their foreign counterparts in the area of ML/TF, which may be spontaneous or upon request. This competence is regulated through laws, MoUs, or through membership in international networks that have their own protocols for information exchange.

CT379. The UAF is empowered by law to exchange information with its counterparts abroad on ML/TF matters on a reciprocal basis without the need for an MoU. (Art. 2, AML/CFT Law). It also participates in the Egmont Group and uses its secure network to exchange information with other FIUs.

CT380. The MP is also empowered to conduct such international cooperation, in accordance with the provisions of Art. 33 (a) of the AML/CFT Law, which makes the rules of Law 20.000 applicable to these offences, especially Articles 47 to 49 on international cooperation.

CT381. The Director General of the PDI has the power to sign international agreements. (Art. 25 (19) of RPDI Decree 41). Carabineros have cooperation agreements and are responsible for organising the Working Meeting of Anti-Drug Police Chiefs and Directors of Latin America, called “Drug Trafficking in the Southern Cone.” The General Director has the power to represent Carabineros de Chile extra-judicially in accordance with the law in the execution of acts, contracts

and conventions of any nature that may be necessary for the achievement of its mission. (Art. 52 (I), of Law 18.961).

CT382. The SNA has multiple customs ACAs and FTAs, and as a result of the information exchanged through these mechanisms, the SNA may become aware of an offence associated with ML, associated predicate offences and TF. These agreements allow customs administrations, upon request or spontaneously, to provide information to ensure the proper application of customs legislation, prevent, investigate, and combat customs crimes and offences, and protect the international trade supply chain.

CT383. The Judiciary provides this cooperation through the DAIDH Supreme Court, created through Act No. 165–2013, and some of its functions include: 1) To serve as a liaison for International Judicial Cooperation: Development of actions for liaison and collaboration between H.E. the SC and other Judicial Powers, Supreme Courts, foreign institutions and bodies; 2) in charge of the office for processing international cases: Processing international letters rogatory and exequatur; and 3) it has the Extraditions Unit: Support for the instructing ministers in processing passive extraditions and monitoring the processing of active, unreformed extraditions.

CT384. According to the Chilean authorities, the CGR may sign agreements with foreign counterparts in accordance with the powers granted to it by Articles 98–100 of the CPR, which establish the CGR as an autonomous body of the State administration. By virtue of said autonomy, the CGR provides international cooperation through its international division.

CT385. The SCJ has the powers granted by law to generate cooperation agreements with its foreign counterparts in matters within its competence. One of the powers of the Superintendent is to execute the acts and enter into agreements necessary for the fulfilment of the mission of the CGR. (Ar. 42.4 of Law 19.995). In addition, Art. 35 of Law 21.080, which amends various legal bodies with the aim of modernising the Ministry of Foreign Affairs, establishes that the bodies of the State Administration, within the scope of their competence, may enter into inter-institutional agreements of an international nature with foreign or international entities.

CT386. In accordance with Art. 6 of the Tax Code, the Director of the SII is the competent authority appointed by the Ministry of Finance to ensure the implementation and monitoring of agreements with similar foreign entities providing this service. This exchange of information may be upon request, spontaneously or automatically. These three methods of exchange can be used jointly, as well as other means of obtaining information that is important to both States.

CT387. The CMF, as a sectoral regulator, has international cooperation powers that include the signing of agreements and MoUs (Art. 5, paragraphs 22 and 23 of the CMF DL 3538), for the purposes of cooperation and technical assistance, information exchange and consultation between regulators, exclusively within the scope of its own powers. The Insurance Area of the CMF has an MoU with the IAIS, which among its objectives and scope (Art. 3 item 4 of the MoU) contemplates cooperation and exchange of information in matters of AML/CFT supervision.

CT388. *Criterion 40.2* – (a) The competent authorities have a legal framework for providing international cooperation. (UAF - AML/CFT Law, Art. 2 (g); MP - AML/CFT Law, Art. 33 (a), which refers to Law 20.000, Art. 47; PJ - Law 165–2013; PDI - DL 2460 LOPI, Art. 5 and Decree 41 RPDI, Articles. 11 and 25 paragraph 19; Carabineros - LOCCCh Art. 52 (I); DIRECTEMAR - DFL 292 LODGTMM, Art. 3 (I), it is responsible for “Exercising the Maritime, Fluvial and

Lacustrine Police”, DL 2222 LN Arts. 5, 96 and 97, and LOCBGAE, Art. 3; SNA - Law 21.080 Art. 35; SCJ - Law 19.995 on CJ arts. 37 and 42; SII - DFL 7 LOSII, Art. 7 (b) bis, Art. 14 i) and Art. 16, and SII Circular 8 and the resolutions mentioned in the latter; CMF - DL 3538 CMF Art. 5 paragraphs 22 and 23, Arts. 29 and 82; CGR - CPR Art. 98–100 and SP - DFL 101 SP Art. 3 (a), and DL 3538 CMF paragraphs 22 and 23 of Art. 5).

(b) Competent authorities in Chile are fully empowered to use the most efficient means to carry out cooperation, such as information exchange platforms, secure e-mails, MoUs and others.

(c) The UAF exchanges information with its foreign counterparts through the mechanisms and channels established by the Egmont Group secure network. For this purpose, it applies a procedure that defines the flow of response, authorisations and channels to transmit the information. In addition, there are 42 MoUs that regulate the exchange of information at the international level with its counterparts. The MP, through UCIEX, processes the formal requirements through institutional e-mail boxes. Likewise, both the MP and the PDI are the RRAG’s contact points. The PDI uses RRAG and INTERPOL channels, and Carabineros uses those provided by APALA and AMERIPOL. As for the SNA, in order to have clear channels for transmitting and executing information requests, the agreements establish that the information must be communicated through officers (in some cases called Liaison Officers) specially designated by the parties and that it must also be treated confidentially. The execution of information requests is mainly carried out through its Department of International Affairs. The SII and the CMF use the channels established in the MoUs.

(d) The MP (UCIEX) carries out the prioritisation in accordance with the request of the requesting authority, without prejudice to trying to provide answers in the shortest possible time. The UAF response process is regulated by the Egmont Group’s International Consultation Procedure. In the case of Carabineros, the prioritisation and execution are in accordance with the level of urgency indicated by the requesting authority and the provisions of the cooperation protocols of the networks of which it is a member. The PDI uses the procedures established in the RRAG and INTERPOL. Moreover, requests for cooperation received by the Minrel are disseminated based on priorities and deadlines to be met among the relevant State agencies. With respect to the SNA, requests are prioritised and executed based on the MoU, and the requesting authority must make this known. Without prejudice to the fact that there have been no problems with the timely provision of international cooperation, there are no processes for prioritisation and timely execution of requests by the competent authorities, with the exception of the UAF and the MP.

(e) Art. 31 of the AML/CFT Law and Art. 182 of the Code of Criminal Procedure provide for the confidentiality of proceedings in the process of investigation, which also covers information received as a result of international cooperation. In addition, the UAF uses the standards required by the Egmont Group for the use of its secure network and incorporates clauses in the MoUs governing this matter. In the case of Carabineros, the information exchanged in relation to consultations on cases in the police sphere, carried out between the institutions, is made available through a single sender and receiver of the information. The information contained therein is treated in an appropriate and confidential manner, and is shared only with the officials involved. The PDI uses the processes related to INTERPOL, and the IIS applies the provisions of the MoUs and Agreements signed with foreign authorities. The CMF issued Exempt Resolution No. 760 that approves the procedure to protect the confidentiality of information received or sent to foreign regulators and international bodies under MoUs. In the case of the SNA, the information received and delivered by the Service can only be used specifically for the purpose for which it was requested and within the framework of the respective Agreement. Information received or sent is mainly used for the development of audits and judicial and/or administrative procedures. Information received by the Service is not shared with third parties outside the Service unless as otherwise authorised by

the entity that provided the information. As regards the SP, Art. 50 of Law 20.255 sets forth the duty of the Superintendent and the staff to keep information they become aware of during the performance of their duties confidential and secret. There are not clear safeguarding processes for the information received by the SP.

CT389. *Criterion 40.3* – The UAF has signed 40 bilateral MoUs with the following countries: Australia, Guatemala, United States, Brazil, Spain, Poland, Korea, Slovenia, Mexico, Panama, Romania, Canada, Cayman Islands, Aruba, Netherlands Antilles, Cyprus, Liechtenstein, Netherlands, Bermuda, Saint Vincent and the Grenadines, Belgium, Malaysia, El Salvador, Luxembourg, Gibraltar, Thailand, Venezuela, Peru, Paraguay, Peru and Nicaragua, United Kingdom, Argentina, Cuba, Dominican Republic, Holy See, Ecuador, Colombia, Monaco, Bolivia, Papua New Guinea; and 2 multilateral MoUs with GAFILAT and the other with Nicaragua and Peru.

CT390. The MP is a member of Iber@, a secure information sharing platform from IberRed. It holds an inter-agency cooperation agreement between MPs and prosecutors of AIAMP which regulates this type of cooperation; 24/7 Network of the Council of Europe Convention on Cybercrime; International MPs Networks, and the RRAG. Carabineros have 21 international cooperation agreements in force with foreign police forces; 10 police attaché offices in the embassies or consulates of 10 countries, which serve as liaisons in the event of requests from local authorities. It participates in APALA, AMERIPOL; and is responsible for organising the Working Meeting of Anti-Drug Police Chiefs and Directors of Latin America, called “Drug Trafficking in the Southern Cone.” PDI currently has 20 agreements in force with foreign counterparts. In addition, the PDI also participates in the RRAG (contact point) and it is the police force in charge of representing Chile before INTERPOL, where the Trafficking in Persons Brigade participates in the ISON Network (Smuggling of Migrants) and the HTEG Network (Trafficking in Persons) groups. Additionally, the PDI’s Airport Anti-Narcotics Brigade participates in INTERCPS, which brings together 185 countries.

The SNA has 16 Customs Cooperation and Assistance Agreements (ACAs) in force (with 9 countries and 2 blocks of countries); and 9 FTAs (with 17 countries); it is also a member of the WCO, which brings together 183 countries. These agreements allow customs administrations, upon request or spontaneously, to provide information to ensure the proper application of customs legislation, prevent, investigate, and combat customs crimes and offences, and protect the international trade supply chain.

CT391. The CGR, for its part, has signed 27 MoUs. The SCJ currently has an agreement in force with the Bolivian Gaming Control Authority (AJ), which establishes a mechanism for coordination, cooperation, collaboration and mutual advice for the development of joint actions aimed at promoting the study and research of issues and areas of common interest in relation to regulatory matters of the gaming industry and its supervision, as well as the design and implementation of programs, activities, studies or other initiatives related to the aforementioned matters. The SII has 46 agreements in force with its counterparts abroad. The CMF as a sectoral regulator currently has 48 MoUs in force signed with foreign counterparts.

CT392. *Criterion 40.4* – The UAF has the power to provide feedback to its counterparts on the use and usefulness of the information through the forms established by the Egmont Secure Network. In addition, authorities such as Carabineros, SNA, SP, PJ, MP, SII and CMF have the possibility of providing feedback on the use and usefulness of the information received, if required.

CT393. *Criterion 40.5* – Restrictions on the exchange of information or assistance are provided for in the international treaties, conventions and instruments signed and ratified by Chile.

CT394. *Criterion 40.6* – Information may be used for the purposes and by the authorities information was granted and requested for, except prior authorisation granted by the competent authority. Information exchanges developed by the UAF are carried out within the framework of memoranda of understanding signed with various foreign counterparts and similar agencies, which contain specific clauses on the use and disclosure of information, confidentiality, and security. Cooperation provided through the Egmont Group is granted on the basis of the Principles and Best Practices for information exchange between FIUs of the Egmont Group, and the Law of Protection of Personal Data. In the case of the MP, PDI and Carabineros, the exchanges carried out through the RRAG platform are governed by the RRAG guidelines, which specifically provide for the obligation to use the information for the purposes it was provided for, unless otherwise expressly authorised. With respect to the CMF, this is governed by Exempt Resolution 760/2018, which contains a procedure to protect the confidentiality and use of information exchanged with foreign counterparts. However, there are no provisions or control measures for the proper use of the information exchanged by the SP.

CT395. *Criterion 40.7* – The contents of the MoUs and cooperation agreements contain requirements on confidentiality and secrecy of information. In particular, in the case of the UAF, all information collected in the intelligence process, regardless of whether it is domestic or international, is stored on a secure network, either in folders on that network and/or within the ACM case management system.

CT396. The SCJ has a Process Management Computer System (PMSS), where all documentation is registered as part of its document management system. However, in the event that it is necessary, information that is classified as confidential is not incorporated into the system, in order to protect the confidentiality or secrecy of the information.

CT397. There are also national regulations that sanction those officials who reveal confidential information. In the case of the police, Art. 182 of the CPC is applied in the case of an investigation order from the MP. Art. 28 of CMF DL 3538 sets forth the obligation for all officials and persons serving the CMF to maintain confidentiality regarding the documents and records they become aware of in the course of their duties (...). Moreover, the CMF issued CMF RE 760 that approves the procedure to protect the confidentiality of information received or sent to foreign regulators and international bodies under MoUs.

CT398. Art. 50 of RP Law 20.255 requires the Superintendent of the SP and all staff to maintain absolute confidentiality and secrecy with regard to the information they become aware of in the course of their duties.

CT399. *Criterion 40.8* – The prosecutors of the MP may carry out investigations on behalf of the foreign counterparts, and exchange the information obtained, insofar as there is an international requirement to that effect (Art. 33 (a) of the AML/CFT Law refers to Law 20.000, Art. 47). However, these provisions are subject only to ML and drug-related offences. The MP, in accordance with Articles 77 and 79 of the CPC, works in this task in coordination with the police (Carabineros, PDI and DIRECTEMAR) for the development of preliminary investigations.

CT400. The UAF is authorised to exchange information with its counterparts abroad, ensuring that such information is not used for purposes other than financial intelligence and that the requesting institution will operate with reciprocity if required. (Art. 2 (g) of the AML/CFT Law).

CT401. *Criterion 40.9* – The UAF has the power to provide international cooperation on ML/TF and associated predicate offences (Art. 2 (g) of the AML/CFT Law). It has also signed 42 MoUs which enable it to exchange information, technical expertise, and joint operations.

CT402. *Criterion 40.10* – Through the MoUs, the UAF has the power to provide feedback to its counterparts on the use and usefulness of the information. In addition, in the case of international cooperation networks, this obligation is also required through their own protocols. The UAF uses the forms established by the Egmont Secure Network.

CT403. *Criterion 40.11* – (a) The UAF has the power to exchange information with its counterparts abroad. (AML/CFT Law, Art. 2 (g)).

(b) In accordance with Art. 2 (g) of the AML/CFT Law, the UAF may exchange all information with its foreign counterparts; for this exchange it must ensure that the information will not be used for different purposes and that the requesting institution will operate with reciprocity in the event that it is required to provide information. Likewise, the exchanges developed through the Egmont Group are carried out on the basis of the Principles and Best Practices for International Cooperation among FIUs.

CT404. *Criterion 40.12* – The power to exchange information by supervisors has been analysed in criterion 40.1.

CT405. *Criterion 40.13* – Art. 82 of the LGB provides that the supervision of banks or companies shall be carried out in accordance with the agreements signed with the supervisory body of the country in which they are established (Chilean banks). These agreements may authorise supervisory institutions to share, on a reciprocal basis, confidential information on companies operating in both countries that are linked by being one controller of the other. The agreements must provide that the confidential information provided to foreign supervisors must be subject to the same reservation established by Chilean law. CMF Securities and Insurance (Art. 5, paragraphs 22, 23 DL 3538) and the SCJ (Law 19.995 CJ, Articles 37 and 42) have the power to exchange information collected nationally with their foreign counterparts. Under Art. 2 (g) of the AML/CFT Law, the UAF, in its capacity as supervisor in this field, may exchange all the information requested with its counterparts abroad. In the case of the SP, under Art. 3 (a) of DFL 101, the same powers are conferred on the SP as on the CMF, and it is therefore able to exchange information in line with the provisions of the Criterion.

CT406. *Criterion 40.14* – Under Art. 2 (g) of the AML/CFT Law, the UAF, in its capacity as supervisor in this field, may exchange all the information requested with its counterparts abroad.

CT407. *Criterion 40.15* – Art. 82 of the LGB (applicable to banks), Articles 5, paragraphs 22 and 23 of DL 3538 (applicable to the CMF on securities and insurance, Articles 37 and 42 of Law 19.995 CJ, and Art. 2 (g) of the AML Law (applicable to the UAF) provide for the possibility of making inquiries on behalf of foreign counterparts and facilitating investigations on their own behalf to speed up supervision.

CT408. *Criterion 40.16* – In the case of the CMF, information received under a MoU as confidential or proprietary will not be provided to third parties without requesting the prior and express consent of the foreign regulatory authority or international body (IO) it was received from. (CMF RE 760, Clause III (5)). Similarly, the UAF does not provide the information to third parties without due authorisation.

CT409. *Criterion 40.17* – In accordance with the analysis developed in criterion 40.1, the UAF, the MP, the PDI, and Carabineros are empowered to exchange information with their foreign counterparts. The SNA has multiple customs ACAs and FTAs, and as a result of the information exchanged through these mechanisms, the SNA may become aware of an offence associated with ML, associated predicate offences, and TF.

CT410. *Criterion 40.18* – The MP uses its investigative powers and techniques to conduct investigations and obtain information on behalf of its foreign counterparts, in coordination with the police (Art. 182 of the CPC). Carabineros, PDI, and DIRECTEMAR, may use their powers, including investigation techniques at their disposal, to carry out inquiries and obtain information on behalf of their foreign counterparts provided that these are ordered by the MP (UCIEX) or the TJ. (Art. 180 of the CPC.) In addition, they can make use of the protocols agreed through the various networks they belong to as long as they do not contradict domestic legislation, for example: AMERIPOL and APALA (Carabineros), Rrag, INTERCOPS and INTERPOL (PDI) and ROCRAMAR (DIRECTEMAR)

CT411. *Criterion 40.19* – At the level of bi-national commitments and mixed commissions led by the Minrel, law enforcement authorities may agree to carry out joint operations with foreign counterparts.

CT412. *Criterion 40.20* – Chile's legal framework does not impose restrictions on the indirect exchange of information with non-counterpart authorities.

#### *Weighting and Conclusion*

CT413. In general, Chile has an adequate regulatory framework and mechanisms to provide the widest range of other forms of international cooperation, and complies with most elements of the Recommendation. Without prejudice to this, there are no processes for prioritisation and timely execution of requests by the competent authorities—with the exception of the UAF and the MP—and there are no clear processes for safeguarding information and control provisions or measures for the appropriate use of information exchanged by the SP. However, these are considered to be minor deficiencies in the general context of the country's international cooperation system.

**Recommendation 40 is rated Largely Compliant.**

*Summary of Technical Compliance – Key Deficiencies*

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) Underlying the Rating
1. <i>Assessing Risks and Applying a Risk-Based Approach</i>	<b>LC</b>	<ul style="list-style-type: none"> <li>Although the Action Plan was developed on the basis of an understanding of the risks of ML/TF and has enabled resources to be allocated to progress with various actions in the strategic lines (e.g. implementation of guidelines for asset investigation in investigations, training, feedback, etc.), there are areas where resources are not applied with a RBA, particularly in relation to the lines linked to AML/CFT supervision.</li> <li>The exceptions to the application of the FATF Rs. are not based on the existence of a demonstrated low risk of ML/TF; nor do they occur in strictly limited and justified circumstances, as provided in sub-criterion a).</li> <li>The regulation does not state that the determination of low ML/TF risks must be consistent with the country's risk assessment.</li> <li>Monitoring and supervision of RIs in terms of ML/TF prevention for lawyers, accountants, dealers in precious metals and stones, and corporate service providers is not conducted, since they are not reporting institutions.</li> <li>RIs are not required to identify, evaluate and understand their ML/TF risks in the terms provided for in paragraphs (a) to (d) of the criterion 1.10.</li> <li>There are no provisions requiring them to establish controls and procedures approved by senior management that would enable them to manage and mitigate identified risks.</li> <li>It does not expressly provide for the obligation by RIs to carry out monitoring of the implementation of controls which would enable them to improve them, if necessary.</li> </ul>
2. <i>National Cooperation and Coordination</i>	<b>C</b>	
3. <i>Money Laundering Offence</i>	<b>LC</b>	<ul style="list-style-type: none"> <li>The criminalisation of ML covers most of the requirements established by the Vienna and Palermo Conventions. However, the offence does not specifically criminalise the behaviour of conversion and transfer of property.</li> <li>The regulation does not cover the following crimes as predicate offenses: (a) Illicit traffic in stolen goods and other property; (b) environmental crimes; (c) murder and serious bodily injury; (d) robbery or theft; (e) extortion; and (f) piracy.</li> <li>The sanction imposed for ML may not be greater than the sanction imposed for the offence on which</li> </ul>

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) Underlying the Rating
		<p>it is based. This provision has an impact on its proportionality and dissuasiveness, as well as on the autonomy of the offence.</p> <ul style="list-style-type: none"> <li>• There are doubts as to whether incitement behaviours are applicable to ML.</li> <li>• The regulation does not fully cover the requirement for the application of criminal liability of LPs.</li> </ul>
4. <i>Confiscation and Provisional Measures</i>	<b>LC</b>	<ul style="list-style-type: none"> <li>• The general rules of criminal procedure do not directly refer to the possibility that operations tending to dissipate the property and species of interest for the effects of securing assets for criminal prosecution may be annulled or revoked by a judge within the framework of a criminal prosecution.</li> </ul>
5. <i>Terrorist Financing Offence</i>	<b>PC</b>	<ul style="list-style-type: none"> <li>• Certain acts contemplated in the Annexes to the Convention are not covered by the regulatory framework.</li> <li>• The legislation does not criminalise the act of mere financing of an individual terrorist.</li> <li>• The legislation does not cover the financing of travel for the purpose of giving or receiving terrorist training.</li> <li>• The definition of the crime establishes a subjective element that requires that the behaviours be carried out with the purpose of being used in a terrorist offence, so it implies that a link should exist with the respective terrorist act. Thus, criterion 5.4 (b) is not covered by the legislation, except in cases where financing is given to a criminal association.</li> <li>• The maximum penalty for TF does not comply with the proportionality and dissuasive nature required by this criterion.</li> <li>• It is not clear if it is considered as an offence the act of organising or directing others in the case of an attempt established in criterion 5.8 (c).</li> <li>• It is not clear that the association referred to in Art. 2 (5) of the Law is applicable to the commission of TF.</li> <li>• The regulation does not fully cover the requirement for the application of criminal liability of LPs.</li> </ul>
6. <i>Targeted Financial Sanctions Related to Terrorism &amp; TF</i>	<b>PC</b>	<ul style="list-style-type: none"> <li>• Beyond the designation of the Minrel as a contact point, there are no rules or procedures in place that provide for the duty to make a prompt decision as to whether they are satisfied, in accordance with existing supra-national principles, that the request is based on reasonable grounds to suspect or believe that the person or entity proposed for designation meets the designation criteria under UNSCR 1373.</li> <li>• With regard to designations under UNSCR 1373, Decree 227 does not provide that a standard of proof based on reasonable grounds should be applied.</li> </ul>

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) Underlying the Rating
		<ul style="list-style-type: none"> <li>• There are doubts as to whether the regime described allows the implementation of the TFSs without delay.</li> <li>• With regard to the scope of the TFSs, the implementation of freezing measures is ordered only with respect to the RI and not with a general scope.</li> <li>• Concerns remain as to whether the freezing measure could be revoked in cases other than homonymy or de-listing.</li> <li>• The obligation to freeze does not apply to all natural and legal persons in the country.</li> <li>• There are no provisions stipulating that freezing may be applied to all funds and assets as required by the standard.</li> <li>• There are no regulatory provisions prohibiting all persons within the national territory from providing funds or other assets to or for the benefit of designated persons or entities.</li> <li>• It is not evident that the Ministry, as the focal point for implementation of the Resolutions, has procedures for informing persons or entities eventually designated under UNSCR 1267/1989 of the existence of the Office of the UN Ombudsperson for the purpose of sending requests for removal from these lists.</li> <li>• Although Art. 445 of the CPC establishes a list of minimum assets that cannot be subject to restrictive measures as to their disposition, all with the purpose of ensuring the maintenance of persons who are subject to legal action, it is not clear how it applies to freezing measures for persons and entities designated by a national country, in accordance with UNSCR 1373.</li> </ul>
7. Targeted Financial Sanctions Related to Proliferation	PC	<ul style="list-style-type: none"> <li>• However, there are doubts as to whether the regime described allows the implementation of the TFSs without delay.</li> <li>• The implementation of freezing measures is ordered only with respect to the RI and not with a general scope.</li> <li>• There are concerns as to whether the freezing measure could be revoked in cases other than homonymy or de-listing.</li> <li>• The regulatory framework does not require the obligation to apply TFSs to be imposed on all natural and legal persons in the country.</li> <li>• It is not apparent that publicly available procedures have been implemented to submit requests for de-listing from PF UNSCRs as required by the criteria, and therefore no procedures are foreseen to enable listed individuals and entities to submit a de-listing</li> </ul>

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) Underlying the Rating
		<p>request to the Focal Point in accordance with UNSCR 1730.</p> <ul style="list-style-type: none"> <li>• There are limitations on the scope of the property subject to the freezing measure.</li> <li>• It is not clear whether the addition of interest or other earnings to accounts frozen under UNSCR 1718 or 1737 is permitted in accordance with criterion 7.5.a. There are doubts as to whether the legislation allows the three conditions set out in criterion 7.5.b to be met.</li> </ul>
8. <i>NPO</i>	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is no adequate review at the regulatory level with regard to the NPOs with the highest risk exposure, so that proportionate measures can be adopted to address TF risks.</li> <li>• There is no evidence of work carried out with NPOs to develop and refine best practices on TF risks and vulnerabilities in the sector.</li> <li>• The liaison and outreach activities carried out with the sector do not address the issue of TF vulnerabilities.</li> <li>• There are no specific measures to encourage NPOs to conduct transactions through regulated financial channels in accordance with the criterion.</li> <li>• The UAF carries out permanent monitoring of the sector, which may trigger action by the law enforcement authorities in cases of TF-related cases, although there are limitations on the application of other risk-based measures to NPOs with greater exposure.</li> <li>• (a) Although Art. 557 of the CC provides that the MJDH shall be responsible for supervising NPOs, there are no monitoring measures with regard to compliance by NPOs with the requirements of the Recommendation.</li> <li>• The possibility of applying effective, proportionate, and dissuasive sanctions to non-compliant entities is not identified. Likewise, there are no sanctions applicable to persons acting on behalf of NPOs.</li> </ul>
9. <i>Financial Institution Secrecy Laws</i>	<b>C</b>	
10. <i>Customer Due Diligence</i>	<b>LC</b>	<ul style="list-style-type: none"> <li>• UAF Circular 49 does not expressly establish the duty to understand the shareholding or control structure of the legal person or arrangement, although it does establish a series of requirements that make it possible to know it;</li> <li>• There are no provisions requiring sufficient information to be gathered about the beneficiary of the life insurance policy so that the identity of the beneficiary can be established at the time of payment;</li> </ul>

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) Underlying the Rating
		<ul style="list-style-type: none"> <li>• there are no provisions requiring verification of the identity of the beneficiary of a life insurance policy at the time of payment;</li> <li>• the regulatory framework does not require FIs to include the beneficiary of a life insurance policy as a material risk factor in determining whether further CDD measures are appropriate, nor does it provide that, if the FI determines that the beneficiary which is a legal person presents a higher risk, it should be required to take further steps, which should include reasonable measures to identify and verify the identity of the beneficiary's BO at the time of payment;</li> <li>• there are no provisions regarding the obligation to verify the identity of the customer as soon as possible and that the referred postponement is essential in order not to interrupt the normal conduct of the transaction;</li> <li>• the obligation for banks to terminate the relationship when they are unable to comply with relevant CDD measures is subject to assessment;</li> <li>• there are no rules applicable to other FIs that require them, when they are unable to comply with relevant CDD measures, not to open the account, not to commence the business relationship or not to carry out the transaction or terminate the business relationship;</li> <li>• there are no rules providing that FIs that have suspicions of ML/TF, and reasonably believe that if they perform CDD they will alert the customer, can avoid the CDD process and file an STR.</li> </ul>
<i>11. Record Keeping</i>	<b>LC</b>	<ul style="list-style-type: none"> <li>• The regulations do not specify that the maintenance of records obtained through CDD processes must continue for at least 5 years after the end of the business relationship.</li> </ul>
<i>12. Politically Exposed Persons</i>	<b>LC</b>	<ul style="list-style-type: none"> <li>• The legislation does not include in its definition those PEPs to which an IO has entrusted a prominent role.</li> <li>• FIs may not apply criteria 12.1 and 12.2 to family members or close associates of PEPs to whom an IO has entrusted a prominent role or to their close associates, as they are not regulated under Chilean regulations.</li> <li>• The findings of criteria 12.1 to 12.3 could affect the identification of PEPs by FIs offering life insurance policies under criterion 12.4.</li> </ul>
<i>13. Correspondent Banking</i>	<b>LC</b>	<ul style="list-style-type: none"> <li>• There are no rules requiring the correspondent bank to be satisfied that the respondent bank is able to provide relevant CDD information upon request in</li> </ul>

Compliance with FATF Recommendations		
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		<p>cases where payment transfer accounts exist in other jurisdictions.</p> <ul style="list-style-type: none"> <li>There are no provisions explicitly requiring banks to be satisfied that respondent FIs do not allow their accounts to be used by shell banks</li> </ul>
14. Money or Value Transfer Services	<b>C</b>	
15. New Technologies	<b>PC</b>	<ul style="list-style-type: none"> <li>The country has carried out a follow-up linked to new means of payment, and has adopted some measures linked to the ML/TF risks of payment assets and new technologies. However, Chile does not seem to have identified and evaluated the risks associated with new products and business practices, and with the use of new technologies or developing technologies for new products or existing products.</li> <li>There is no legal framework applicable to all FIs to conduct risk assessments prior to the launch or use of new products, practices, and technologies.</li> </ul>
16. Wire Transfers	<b>LC</b>	<ul style="list-style-type: none"> <li>There are no provisions establishing the requirement to include the beneficiary's account number when the account is used to process the transaction or, if there is no account, a unique reference number of the transaction to allow it to be traced.</li> <li>Except for banks, full information is not required in cases of transactions below the USD 1,000 threshold.</li> <li>For transactions under USD 1,000, there is no explicit requirement to verify information in the event of suspicion of ML/TF, although reasonable steps are required to do so.</li> <li>Limitations are noted with regard to compliance with criteria 16.6 and 16.9 in relation to the transactions of non-banking institutions below the threshold.</li> <li>The originating institution is not required to stop the wire transfer when it does not comply with all the information requirements.</li> <li>It is not clear that the regulations provide for the obligation to file an STR in the country affected by the suspicious electronic transfer and that it should provide the relevant information on the transaction to the respective Financial Intelligence Unit.</li> </ul>
17. Reliance on Third Parties	<b>NA</b>	
18. Internal Controls and Foreign Branches and Subsidiaries	<b>LC</b>	<ul style="list-style-type: none"> <li>The CACs do not have provisions establishing that their AML/CFT programmes must include rigorous selection procedures to guarantee high standards in the hiring of employees.</li> </ul>

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) Underlying the Rating
		<ul style="list-style-type: none"> <li>The regulations provide for the obligation to have an internal audit, but there are no provisions for external audits.</li> <li>There are no provisions requiring financial groups to have programmes that include policies and procedures for sharing the information required for CDD and ML/TF risk management purposes.</li> <li>Without prejudice to the fact that the legislation establishes the obligation of RIs to have compliance programmes, the regulations do not provide for the obligation to have programmes that include the provision of compliance at group level in the terms required by the sub-criterion 18.2 b).</li> <li>In the event that the host country does not allow the adequate implementation of AML/CFT measures in accordance with the country of origin, beyond the duty to inform supervisors, financial groups are not required to apply additional appropriate measures to manage ML/FT risks.</li> </ul>
<i>19. Higher-Risk Countries</i>	<b>C</b>	
<i>20. Reporting of Suspicious Transactions</i>	<b>LC</b>	<ul style="list-style-type: none"> <li>The regulation does not exactly state that FIs must report their suspicions or reasonable grounds for suspecting that funds are derived from criminal activities, although the definition of suspicious transaction also allows to cover such assumptions and the AT was able to verify that this is complied with in practice.</li> </ul>
<i>21. Tipping-off and Confidentiality</i>	<b>C</b>	
<i>22. DNFBP: Customer Due Diligence</i>	<b>PC</b>	<ul style="list-style-type: none"> <li>Dealers in precious metals and stones, lawyers, independent accountants, and corporate service providers are not considered RIs.</li> <li>The deficiencies noted in Recommendations 10, 11, 12 and 17, and whether DNFBPs have specific provisions setting out the requirements for new technologies under R.15 affect compliance with this R.23.</li> </ul>
<i>23. DNFBP: Other measures</i>	<b>PC</b>	<ul style="list-style-type: none"> <li>Lawyers, accountants, dealers in precious metals and stones, and company service providers are not subject to AML/CFT obligations under the regulations.</li> <li>The deficiencies described in R.18 apply.</li> </ul>
<i>24. Transparency and Beneficial Ownership of Legal Persons</i>	<b>PC</b>	<ul style="list-style-type: none"> <li>Beyond the obligation of the FI to obtain information on the BO of its customers who are LPs, there are no provisions to guarantee that the commercial company itself obtains information on its BO and that such information is located in a specific place in the country, or that an authority determines it in a timely manner through the mechanisms indicated in this criterion.</li> </ul>

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) Underlying the Rating
		<ul style="list-style-type: none"> <li>• There are no other provisions or mechanisms requiring all types of legal persons to keep accurate and up-to-date information on their BO.</li> <li>• Regardless of the duty to reply to information requests which may be issued by the law enforcement authorities in the context of an investigation, there are no provisions requiring natural persons resident in the country to be authorised by the company to provide all the information on the BO to the competent authorities.</li> <li>• There is no requirement for DNFBPs to identify the BO.</li> <li>• Deficiencies relating to the scope of the obligation to identify BO impact on the possibility of applying sanctions for non-compliance with the requirements of the standard.</li> <li>• Other competent authorities do not seem to monitor the quality of assistance they receive from foreign counterparts in response to requests for basic or BO information.</li> <li>• No provision is made to ensure that all persons, authorities and entities mentioned in this R., and the company itself (or its directors, liquidators or other persons involved in the dissolution of the company), must keep the information and records referred to for at least five years from the date on which the company is dissolved or otherwise ceases to exist, or five years from the date on which the company ceases to be a customer of the professional intermediary or financial institution.</li> </ul>
25. <i>Transparency and Beneficial Ownership of Legal Persons and Arrangements</i>	LC	<ul style="list-style-type: none"> <li>• There are no specific obligations for foreign fiduciaries (or their representatives) to disclose their status to RIs when establishing a business relationship or when conducting an occasional transaction.</li> </ul>
26. <i>Regulation and Supervision of Financial Institutions</i>	LC	<ul style="list-style-type: none"> <li>• Chile has a legal framework to prevent criminals from owning or occupying a management position in entities. However, the regulatory framework does not seem to cover members, which is appropriate to prevent criminals from also being BOs of such entities.</li> <li>• There are no integrity check provisions applicable to credit unions that are not subject to CMF registration (because they are below the threshold).</li> <li>•</li> </ul>
27. <i>Powers of Supervisors</i>	C	
28. <i>Regulation and Supervision of DNFBPs</i>	PC	<ul style="list-style-type: none"> <li>• Lawyers, accountants, corporate service providers, and dealers in precious metals and stones are not subject to AML/CFT supervision, since they are not considered to be RIs.</li> </ul>

Compliance with FATF Recommendations		
Recommendation	Rating	Factor(s) Underlying the Rating
		<ul style="list-style-type: none"> <li>The mechanism for verifying the integrity of DNFBPs is carried out with regard to applications for registration with the UAF, but not with regard to applications for professional accreditation, or to hold a significant or controlling interest or a management position in the DNFBP.</li> </ul>
29. <i>Financial Intelligence Units</i>	C	
30. <i>Responsibilities of Law Enforcement and Investigative Authorities</i>	C	
31. <i>Powers of Law Enforcement and Investigative Authorities</i>	C	
32. <i>Cash Couriers</i>	LC	<ul style="list-style-type: none"> <li>There are no provisions that provide for the possibility of withholding, for a reasonable time, cash or negotiable instruments when there is suspicion of ML/TF or predicate offences, or in case of a false declaration, in order to determine whether evidence of ML/TF can be found.</li> <li>The deficiencies identified in criteria 3.9 and 5.6 affect compliance with this Recommendation.</li> <li>There are no provisions that provide for the possibility of withholding, for a reasonable time, cash or negotiable instruments when there is suspicion of ML/TF.</li> </ul>
33. <i>Statistics</i>	C	
34. <i>Guidance and Feedback</i>	LC	<ul style="list-style-type: none"> <li>Regardless of the important feedback measures developed by the UAF for the many regulated sectors in the area of AML/CFT, the feedback from other regulators and prudential supervisors with AML/CFT responsibilities is more limited.</li> </ul>
35. <i>Sanctions</i>	LC	<ul style="list-style-type: none"> <li>With regard to NPOs, the legislation provides for the cancellation of the legal personality of NPOs, among other reasons, for serious violations of their statutes, which may be pronounced by the competent judicial authority. However, there are no clear procedures for the purpose of enforcing it.</li> <li>Lawyers, accountants, corporate service providers, and dealers in precious metals and stones are not covered by the legislation and are therefore not subject to AML/CFT sanctions.</li> </ul>
36. <i>International Instruments</i>	LC	<ul style="list-style-type: none"> <li>The deficiencies identified in the criminalisation of ML/TF limit the full implementation of the articles of these conventions.</li> </ul>
37. <i>Mutual Legal Assistance</i>	C	
38. <i>Mutual Legal Assistance: Freezing And Confiscation</i>	C	



<b>Compliance with FATF Recommendations</b>		
<b>Recommendation</b>	<b>Rating</b>	<b>Factor(s) Underlying the Rating</b>
<i>39. Extradition</i>	<b>LC</b>	<ul style="list-style-type: none"><li>• There are no provisions for executing requests for extradition for TF beyond those in the CIRFT.</li></ul>
<i>40. Other Forms of International Cooperation</i>	<b>LC</b>	<ul style="list-style-type: none"><li>• There seem to be no processes for prioritisation and timely execution of requests by the competent authorities, with the exception of the UAF and the MP.</li><li>• There are not clear safeguarding processes for the information received by the SP.</li><li>• There are no provisions or control measures for the proper use of the information exchanged by the SP.</li></ul>

*Abbreviations and Acronyms*

ACA	Customs Cooperation and Assistance Agreements
ACM	Advanced case management
AFIP	Private Investment Fund Managers
AGCID	Chilean Agency of International Cooperation for Development
AGF	General Fund Managers
AIOS	International Association of Pension Fund Supervisors
AMERIPOL	Police Community of America
AML/CFT	Anti-Money Laundering and Counter-Terrorist Financing
ANI	National Intelligence Agency
APALA	Group of Police Attachés
approx.	Approximately
Art.	Article
ASSAL	Association of Latin American Insurance Supervisors
BCBS	Basel Committee on Banking Supervision
BCCCh	Central Bank of Chile.
BIP	Special Police Brigade
BIPE	Special Police Investigation Brigade
BNI	Bearer Negotiable Shares
BO	Beneficial Ownership
BRILAC	Money Laundering Investigative Brigade
CA	Court of Appeal
CAC	Credit Unions
Carabineros	Carabineros de Chile
CAV	Voluntary Savings Quote
CBR	Real Estate Registrars
CC	Civil Code
CC CGR - MP - CDE	Cooperation agreement between the Comptroller General of the Republic - MP - State Defence Council.
CCOM	Commercial Code of Chile
CDD	Customer Due Diligence
CDE	State Defence Council
cf	Core issue
CGR	Comptroller General of the Republic
Chile - Japan Agreement 2016	Agreement between the Republic of Chile and Japan to eliminate double taxation in relation to income taxes and to prevent tax evasion and avoidance, and its Protocol of 2016
CJ	Gaming Casinos
CMF	Financial Market Commission
CPC	Criminal Procedural Code

CPR	Political Constitution of the Republic of Chile
CRS	Common Reporting Standard
CTR	Cash Transaction Report (CTR)
DAIDH Supreme Court	International Affairs and Human Rights Directorate of the Supreme Court
DFC	Supervision and Compliance Division
DGCP	Directorate General for Collateral Credit
DGAC	General Directorate of Civil Aviation
Directemar	Directorate-General for the Maritime Territory and the Merchant Navy
DISIN	Directorate of International and Human Security
DNFBP	Designated Non-Financial Business and Professions
DO	Official Gazette of Chile
DPTE	Declarations of Possession and Transportation of Cash
DS	Supreme Decree
ECLAC	Economic Commission for Latin America and the Caribbean
EIRL	Individual limited liability company
ENPPCLA/FT	National strategy for the prevention and fight against money laundering and terrorist financing
FATF	Financial Action Task Force
FATF R.	FATF Recommendations
FIR	Financial Intelligence Report
FIs	Financial Institutions
FIU	Financial Intelligence Unit
Fourth GA 2018/2020 Action Plan	Fourth Open Government 2018–2020 Action Plan
FTA	Free Trade Agreement
FZ	Free Zone
GDP	Gross Domestic Product
Honourable SC	Honourable Supreme Court
HTEG	Network against Trafficking in Persons
IAIS	International Association of Insurance Supervisors
IALA	International Association of Marine Aids to Navigation and Lighthouse Authorities
ICARE	Chilean Institute of Rational Business Administration
ICC Carabineros	Chilean International Cooperation Agreements of Chilean Carabineros
ICSFT	United Nations International Convention for the Suppression of the Financing of Terrorism
IIMV	Ibero-American Institute for the Stock Market
IMO	International Maritime Organisation
INE	National Statistics Institute
INTERPOL	International Criminal Police Organization

IO	International Organisations
IOPS	International Organisation of Pension Supervisors
IOSCO	International Organization of Securities Commissions
ISON	Network against Smuggling of Migrants
JG	Judge of Guarantee
LBCCh	Organic Constitutional Law of the Central Bank of Chile
LOCBGAE	Organic Constitutional Law on the General Principles of State Administration
LOCCCh	Organic Constitutional Law of Carabineros de Chile
LP	Legal Person
LTDA	Limited Liability Company
MER	Mutual Evaluation Report
MH	Ministry of Finance
MinDefensa	Ministry of National Defence
MinEc	Ministry of Economy, Development, and Tourism
MinEnergia	Ministry of Energy
MinInt.	Ministry of the Interior
Minrel	Ministry of Foreign Affairs
MJDH	Ministry of Justice and Human Rights
ML	Money laundering
MLA	Mutual legal assistance
MMOU	Multilateral Memorandum of Understanding
MoU	Memorandum of Understanding
MP	Attorney General's Office
MPAE	Strategic Analysis Area Procedures Handbook
MPF	Supervision Procedures Handbook
MSGP or Segpres	Ministry Secretariat General of the Presidency
MTC	Money Transfer Companies
MVTS	Money and Value Transfer Services
No.	Number
NPO	Non-profit organisations
NRA	Money Laundering and Terrorist Financing National Risk Assessment
OAS	Organisation of American States
OdeC	Compliance Officer
ODP	Professional Sport Organisations
OECD	Organisation for Economic Co-operation and Development
OISS	Ibero-American Social Security Organisation
OJ	Legal Order
PAF	UAF National Annual Supervision Plan
PDI	Investigative Police

PdR	President of the Republic
PEP	Politically Exposed Person
PFM	Pension Fund Managers
PGS UAF	General Security Policy of the UAF
Pjud	The Judiciary
PWMD	Proliferation of Weapons of Mass Destruction
RAN	Current Regulations Collection
RBA	Risk-Based Approach
RBS	Risk-based supervision
REMPM	Specialized Meeting of MERCOSUR Attorney General's Offices
RI	Legally bound persons / reporting parties
ROCRAM	Operational Network of Regional Cooperation of Maritime Authorities of the Americas
RRAG	GAFILAT Asset Recovery Network
RUC	Unique Role of Cause
RUT	Chilean Unique Tax Number
S.A.	Corporation
SADP	Public Senior Management System
SAGR	Mutual Guarantee Corporations
SBIF	Superintendence of Banks and Financial Institutions
SCJ	Superintendence of Gambling and Casinos
SENDA	National Service for the Prevention and Rehabilitation of Drug and Alcohol Consumption
SERVIU	Metropolitan Housing and Urban Planning Service
SGDP	Process Management Computer System
SII	Internal Revenue Service
SNA	National Customs Service of Chile
SP	Superintendence of Pensions
SpA	Joint Stock Company
SRA	Sectoral Risk Assessment
SRCeI	Civil Registry and Identification
STR	Suspicious Transaction Report
SUSESO	Social Security Superintendence
SVS	Superintendence of Securities and Insurance
TEF	Wire transfer of funds
TF	Terrorist Financing
TJ	Courts of Justice
TPPF	Payment Cards with Provision of Funds
UAF	Financial Analysis Unit
UCIEX	MP International Cooperation and Extraditions Unit
UF	Development Unit



ULDDECO	Money Laundering, Economic Crimes and Organised Crimes Unit
UN	United Nations
UNCAC	United Nations Convention against Corruption
UNDP	United Nations Development Programme
UNO	United Nations Organisation
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
USD	United States Dollar
UTA	Annual Tax Unit
UTM	Monthly Tax Unit
VAT	Value Added Tax
WCO	World Customs Organization
ZOFRI	Free Zone of Iquique
ZONAUSTRAL	Free Zone of Punta Arenas



Torres del Paine, Chile

