

**Union of the Comoros: Report on Observance of Standards and Codes—
FATF Recommendations for Anti-Money Laundering and
Combating the Financing of Terrorism**

This Report on the Observance of Standards and Codes on the FATF Recommendations for Anti-Money Laundering and Combating the Financing of Terrorism for Union of the Comoros was prepared by the Fund staff. The views expressed in this document as well as in the detailed assessment report, on which it is based, are those of the FATF and do not necessarily reflect the views of the Government of Comoros or the Executive Board of the IMF.

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UNION OF THE COMOROS

**Report on Observance of Standards and Codes (ROSC)—FATF Recommendations for
Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT)**

Prepared by the Legal Department

Approved by Sean Hagan

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ACRONYMS

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
CC	Criminal Code
DAR	Detailed Assessment Report
DNFPB	Designated Non-Financial Businesses and Professions
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FT	Financing of Terrorism
IMF	International Monetary Fund
INTERPOL	International Criminal Police Organization
LEG	IMF Legal Department
ML	Money Laundering
NPO	Non-profit Organization
PEPs	Politically Exposed Persons
ROSC	Report on the Observance of Standards and Codes
STR	Suspicious Transaction Report
UNODC	United Nations Office on Drugs and Crime
UNSCR	United Nations Security Council Resolution

A. Introduction

1. This Report on the Observance of Standards and Codes for the Financial Action Task Force (FATF) 40 Recommendations for Anti-Money Laundering (AML) and 9 Special Recommendations on Combating the Financing of Terrorism (CFT) was prepared by the Legal Department of the IMF.¹ The report provides a summary of the AML/CFT measures in place in the Union of the Comoros (the Comoros) and of the level of compliance with the FATF 40+9 Recommendations, and contains recommendations on how the AML/CFT system could be strengthened. The assessment is based on the information available at the time of the on-site mission conducted from May 6 to 20, 2009, and other verifiable information subsequently provided by the authorities. It was conducted using the 2004 Assessment Methodology as updated. The Detailed Assessment Report (DAR) on which this document is based was adopted by the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) plenary on March 24, 2010. The views expressed here, as well as in the full assessment report, are those of the IMF team, and do not necessarily reflect the views of the Government of the Comoros or the Executive Board of the IMF.

B. Key Findings

2. Since 2003, the Comoros has introduced a number of measures to establish an AML/CFT regime. However, the legal framework has many shortcomings and is generally not effectively implemented. As a result, none of the FATF 40+9 recommendations have been rated compliant, and only four recommendations have been rated largely compliant. These recommendations relate to cross-border correspondent relationships (R.7), the protection for STR reporting (R.14), document production, search and seizure powers for law enforcement agencies (R.28), and domestic cooperation (R.31). The remaining 36 recommendations and all the nine special recommendations have been rated either non-compliant or partially compliant.

3. The 2003 Presidential ordinance that criminalizes money laundering (ML) has not been widely implemented. The implementation of an AML/CFT policy began in 2008 with the appointment of the members of the Financial Intelligence Unit (FIU), awareness-raising efforts with entities concerned in the public and private sectors, and the enactment in March 2009 of an ordinance that expanded the scope of the AML/CFT preventive measures and covered the financing of terrorism. However, there have been no investigations or convictions for ML/FT.

¹ The assessment team consisted of Emmanuel Mathias (team leader), Chady El Khoury (both LEG), Habib Hitti (expert under the supervision of LEG), and André Cuisset (expert under the supervision of the World Bank and the IMF).

4. The limited capacity to absorb the proceeds of foreign offenses and the fact that the financial system is relatively underdeveloped minimize the risk of some ML activities. Central and islands' authorities do not have criminal statistics that would enable one to estimate the income gained from predicate offenses committed on the islands. Nevertheless, due to the level of development in the Comoros, income of this type seems to have been limited compared to the sums generated in other countries, although it may have relatively significant effects on the local economy. The main income-producing predicate offenses seem to be narcotics trafficking, migrant smuggling, and corruption.

5. There are further specific vulnerabilities in the Comoros due to the limitations of the procedures for identifying legal and natural persons.² Significant weaknesses are found in the administration of civil and commercial registries, and the registration of offshore companies in Anjouan, as well as the recent enactment of a law on economic citizenship might be attractive to criminals. The Anjouan authorities state that they have abandoned the development of the offshore sector since the summer of 2008. The Anjouan law on offshore banks was unconstitutional as it was in violation of the provisions of the organic law which set out the respective competencies of the central government and the islands. However, the law enabling the creation of offshore companies was legally adopted by the Parliament of Anjouan and, since it has not been repealed, continues to present a risk. As for economic citizenship, the authorities have indicated that they have implemented strict control measures³ that are intended to prevent abuses, but concerns regarding the possible misuse of this arrangement for criminal purposes do remain.

6. The Comoros has not had any terrorist acts on its soil. However, an investigation regarding terrorist acts was initiated several years ago and is still pending. It involves a Comorian who is suspected of being a member of Al-Qaeda and sometimes considered to be the organization's representative in eastern Africa. The Comoros are a potential transit point for international terrorism, particularly due to limited resources and training in counter-terrorism and maritime security.

C. Legal Systems and Related Institutional Measures

7. Money laundering is a criminal offense under Comorian law in accordance with the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) and the 2000 United Nations Convention against Transnational Organized Crime (Palermo Convention). All crimes or offenses may constitute predicate offenses of ML and, consequently, Comorian legislation does not specify a threshold for offenses. However, some offenses included in FATF's designated category of

² Deployment of a biometric system for the identification of natural persons has been under way since June 2008.

³ The authorities indicate that they consult Interpol, UNODC, and the intelligence services of the country of origin of the applicant.

offenses are not listed in the Criminal Code (CC) or special laws: e.g., trafficking in human beings and migrant smuggling, environmental crimes, and piracy.

8. The criminalization of the financing of terrorism is not in compliance with Article 2 of the 1999 United Nations Convention for the Suppression of the Financing of Terrorism (New York Convention). There are no provisions allowing the Comorian authorities to freeze the assets of terrorists and other persons designated by the United Nations Security Council Resolution (UNSCR) 1267 (1999) and subsequent resolutions, and of UNSCR 1373 (2001).

9. The authorities have established an FIU, the members of which have been appointed, but the unit has not yet received any suspicious transaction reports. Moreover, the authorities responsible for prosecutions, which take place in an environment characterized by a lack of resources and some instances of corruption, have not yet had the opportunity to implement their powers in investigations of ML or FT. The physical cross-border transportation of currency is subject to general exchange control regulations and specific AML/CFT regulations, although the latter have not yet been implemented.

D. Preventive Measures – Financial Institutions

10. The 2009 ordinance makes the main financial institutions operating in the Comoros subject to AML/CFT measures, but does not cover insurance companies. Life insurance is allowed but currently not distributed. Due diligence measures have been in place for financial institutions since 2003 and are laid out in the 2009 ordinance. These measures do not cover numbered accounts (which are possible but do not exist in practice), and do not require the updating of information collected under the customer due diligence process, nor do they provide adequate limitations on the application of simplified measures, especially in cases of suspicion of ML/FT.

11. The requirement to report suspicious transactions does not extend to all funds suspected of being related to FT and does not cover attempted transactions. While being required to report suspicious transactions since 2003, no financial institution has ever filed an STR. This could be explained by the absence of guidelines to assist financial institutions in the implementation of their reporting obligations, as well as by fears regarding the confidential treatment of STRs.

12. There are no specific obligations regarding reliance on third parties and intermediaries, non-face to face business relationships, and branches and subsidiaries abroad. However, the latter two situations do not exist in the Comoros at the present time. Moreover, the conditions for the licensing of insurance companies and the registration of exchange houses and money remitters should be prescribed. Thus far, most institutions subject to the law have not yet put AML/CFT policies and procedures in place. Although the central bank has begun to monitor implementation of the AML/CFT preventive measures, it does not have the necessary resources to perform its mission.

E. Preventive Measures – Designated Non-Financial Businesses and Professions

13. The 2009 ordinance covers all designated non-financial businesses and professions (DNFBPs), but the obligations laid out are very limited and have not been implemented to date. AML/CFT monitoring and supervision of DNFBPs are generally weak or nonexistent.

F. Legal Persons and Arrangements & Non-Profit Organizations

14. Legal persons have to be registered and must provide to the registrar information such as identification of the managers, administrators, or partners responsible for company debts. However, the Comorian authorities lack the necessary resources to ensure that information, which is recorded manually by the Registry of the Regional Court of each island, is up-to-date and accurate. Trusts and other similar legal arrangements are not used in the Comoros. In Comorian law, nonprofit organizations (NPO) come under the law on associations. However, the registration of foreign NPOs is subject to a separate regime, which is characterized by a lack of centralization and is based on agreements with the ministries concerned for given projects, including the obligation to provide limited identification data.

G. Domestic and International Co-operation

15. The FIU, whose composition resembles more an intergovernmental coordination committee than an operational unit, could potentially be an effective leader of domestic coordination.

16. The Vienna, Palermo, and New York Conventions have been signed and ratified, but have not been transposed into domestic law, which prevents their implementation and impedes international cooperation.

17. The Comorian legal framework allows the authorities to cooperate broadly with foreign counterparts to exchange information, for investigations and proceedings aimed at implementing provisional measures and the confiscation of the proceeds of and instrumentalities used in ML, for extradition, and for mutual legal assistance. The weaknesses of the criminalization of FT in Comorian law and the lack of criminalization of some of the designated predicate offenses, coupled with the strict application of the principle of dual criminality, tend to limit the scope of the assistance that the authorities are able to provide to other countries. In the absence of requests for mutual legal assistance or extradition for ML/FT offenses, it is not possible to assess the capacity to respond to such requests in a timely fashion and in a constructive and effective way.

Summary Table of Observance and Key Recommendations

Compliant (C): the Recommendation is fully observed with respect to all essential criteria. Largely compliant (LC): there are only minor shortcomings, with a large majority of the essential criteria being fully met. Partially compliant (PC): the country has taken some substantive action and complies with some of the essential criteria. Non-compliant (NC): there are major shortcomings, with a large majority of the essential criteria not being met. Not applicable (NA): a requirement or part of a requirement does not apply, due to the structural, legal or institutional features of a country.	
FATF 40+9 Recommendations and Ratings	Key Assessor Recommendations
Legal System and Related Institutional Measures	
Criminalization of Money Laundering R.1 PC R.2 PC	<ul style="list-style-type: none"> • Criminalize human trafficking and smuggling of migrants, trafficking in stolen goods, environmental crimes, kidnapping, illegal restraint and hostage taking, smuggling, piracy, insider trading and market manipulation. • Expand the criminalization of trafficking in narcotics and psychotropic substances, and participation in organized crime to include all the material elements in accordance to the standards. • Expand the money laundering offense to assisting, facilitating, and advising in its commission.
Criminalization of Terrorist Financing SR.II PC	<ul style="list-style-type: none"> • Criminalize terrorism financing in accordance with the 1999 United Nations Convention for the Suppression of the Financing of Terrorism.
Confiscation, freezing, and seizing of proceeds of crime R.3 PC	<ul style="list-style-type: none"> • Ensure that law enforcement authorities and the FIU have adequate powers to detect and trace the origin of property.
Freezing of funds used for terrorist financing SR.III NC	<ul style="list-style-type: none"> • Effectively implement mechanisms for the freezing funds or other assets pursuant to UNSCR 1267 and 1373.
The Financial Intelligence Unit and its functions R.26 NC	<ul style="list-style-type: none"> • Allow the FIU to receive, analyze, and transmit suspicious transaction reports and other information concerning funds suspected of being related to terrorist financing. • Ensure access to information by the FIU. • Ensure the independence and operational autonomy of the FIU. • Publish periodic reports including statistics. • Consider seeking membership to the Egmont Group and take its principles into consideration.
Law enforcement, prosecution and other competent authorities R.27 PC R.28 LC	<ul style="list-style-type: none"> • Empower authorities responsible for the investigation of ML, FT and underlying predicate offenses to conduct searches for financial documents or other information. • Ensure effective articulation of the investigative missions recently granted to the FIU with the ones of existing investigative units.
Cross Border Declaration or disclosure SR IX NC	<ul style="list-style-type: none"> • Implement requirements for declaring the cross-border transportation of currency and other monetary instruments. • Authorize customs authorities to request and obtain from the carrier information regarding the origin of the currency or bearer negotiable instruments, and their intended use, upon discovery of a false declaration.. • Make collected information available to the FIU.

	<ul style="list-style-type: none"> Put in place effective, proportionate, and dissuasive sanctions for persons who make a false declaration.
Preventive Measures: Financial Institutions	
Risk of money laundering or terrorist financing	<ul style="list-style-type: none"> Introduce preventive measures for insurance companies.
Customer due diligence (CDD), including enhanced or reduced measures R.5 NC R.6 NC R.7 LC R.8 PC	<ul style="list-style-type: none"> Require CDD with regard to numbered accounts and ongoing due diligence. Limit the application of simplified due diligence measures, whether with respect to customers residing in foreign countries or in the case where money laundering or terrorist financing is suspected. Introduce implementing regulations regarding: <ul style="list-style-type: none"> The time frame for cumulating what appear to be linked transactions into a single one carried out by an occasional customer. Reasonable measures for verifying the identity of the beneficial owner. Classification of high-risk clients . Cases where reduced or simplified measures should be applied. Appropriate times to conduct due diligence measures for existing clients. Accelerate the issuance of biometric passports in order to halt the circulation of regular passports that can be falsified and used to open bank accounts. Ensure a reliable and accessible source for identifying legal persons. Require financial institutions to determine whether the beneficial owner of an account is a politically exposed person (PEP), to be defined in line with the standard, and require financial institutions to obtain authorization from senior management in order to continue a business relationship with an existing client that is subsequently found to be a PEP. Require financial institutions to satisfy themselves of the relevance and effectiveness of the controls put in place by the correspondent bank before entering into a correspondent banking relationship. Regulate non-face to face business relationships.
Third parties and introduced business R.9 NC	<ul style="list-style-type: none"> Regulate reliance on intermediaries or other third parties to perform the CDD process or to introduce business.
Financial institution secrecy or confidentiality R.4 NC	<ul style="list-style-type: none"> Eliminate obstacles to information sharing between competent national authorities and financial institutions. Review the cross-referencing in the 2009 ordinance so that banking secrecy does not inhibit its implementation.
Record keeping and wire transfer rules R.10 NC SR.VII NC	<ul style="list-style-type: none"> Require records to be kept for at least five years after transactions are completed. Require (i) full originator information to be included in the message accompanying cross-border transfers, and (ii) at least the account number to be included in the message for domestic transfers. Require the beneficiary's financial institution to adopt effective procedures based on a risk assessment in order to identify and deal with transfers that are not accompanied by full information on the originator. Put appropriate measures in place to monitor effectively the compliance with regulations on wire transfers.
Monitoring of transactions and relationships	<ul style="list-style-type: none"> Eliminate the current threshold for monitoring complex and unusual transactions and ensure that reviews of such transactions are available to auditors.

<p>R.11 NC R.21 NC</p>	<ul style="list-style-type: none"> • Advise financial institutions on countries with weaknesses in their AML/CFT system. • Review the 2009 ordinance to clarify that countermeasures have to be decided by the government of the Comoros and not by financial institutions.
<p>Suspicious transaction reports and other reporting</p> <p>R.13 NC R.14 LC R.19 NC R.25 NC SR.IV NC</p>	<ul style="list-style-type: none"> • Clarify the framework for reporting suspicions in order to remove the ambiguities created by the wording of Article 21 of the 2009 Ordinance. • Extend the requirement to report transactions to all funds suspected of being linked or related to or to be used for terrorism, terrorist acts or by terrorist organizations or those who finance terrorism. • Require the reporting of suspicious attempted transactions. • Repeal Anjouan's AML law dated January 10, 2005. • Study the feasibility and usefulness of a system for reporting currency transactions. • Develop and disseminate reporting guidelines and provide feedback to financial institutions and DNFBPs on detecting and reporting suspicious transactions.
<p>Internal controls, compliance, audit and foreign branches</p> <p>R.15 NC R.22 NC</p>	<ul style="list-style-type: none"> • Require financial institutions to establish internal AML/CFT policies and procedures. • Require financial institutions to ensure timely access to necessary information by the compliance officer. • Ensure independence of internal control mechanisms. • Require financial institutions to ensure that, if they decide to establish foreign branches or subsidiaries abroad, these entities must apply AML/CFT measures in compliance with Comorian law and the FATF recommendations.
<p>Shell banks</p> <p>R.18 NC</p>	<ul style="list-style-type: none"> • Review the licensing process in order to prevent the establishment and operation of shell banks. • Prohibit financial institutions from maintaining relationships with shell banks. • Require that financial institutions take reasonable measures to satisfy themselves that their correspondent banks do not themselves maintain relationships with shell banks.
<p>Supervisory and oversight system—competent authorities and SROs Role, functions, duties and powers (including sanctions)</p> <p>R.17 NC R.23 NC R.25 NC R.29 NC</p>	<ul style="list-style-type: none"> • Establish effective, proportionate and dissuasive monetary sanctions for banks and financial institutions. • Introduce requirements for licensing of insurance companies, and the registration of foreign exchange offices. • Ensure enforcement of the banking law with respect to financial activities currently performed without authorization. • Strengthen on-site supervision and put in place documentary controls. • Establish guidelines in the area of AML/CFT to help financial institutions and designated non-financial businesses and professions implement and comply with their respective AML/CFT obligations.
<p>Money value transfer services</p> <p>SR.VI NC</p>	<ul style="list-style-type: none"> • Establish licensing requirements for money transfer services. • Address the deficiencies identified with respect to CDD, record-keeping, and supervision and regulation. • Maintain an updated list of money transfer service operators.
Preventive Measures: Non-Financial Businesses and Professions	
<p>Customer due diligence and record-keeping</p> <p>R.12 NC</p>	<ul style="list-style-type: none"> • Publish the implementing regulations with respect to casinos and traders in precious stones and metals. • Expand CDD requirements. • Introduce requirements with respect to PEPs. • Take measures with respect to new technologies that may facilitate

	<p>customer anonymity, and to relationships that not involving the physical presence of the customer.</p> <ul style="list-style-type: none"> • Establish record-keeping requirements. • Make results of reviews of complex and unusual transactions available to auditors.
<p>Suspicious transaction reporting</p> <p>R.16 NC</p>	<ul style="list-style-type: none"> • Publish the implementing regulations with respect to traders in precious stones and metals. • Clarify the framework for reporting suspicions to remove the ambiguities caused by the wording of Article 21 of the 2009 Ordinance. • Explicitly require the reporting of suspicions of terrorist financing. • Require the reporting of suspicious attempted transactions. • Undertake actions to strengthen the knowledge of entities subject to AML/CFT requirements with respect to their STR obligations.
<p>Regulation, supervision, monitoring, and sanctions</p> <p>R.24 NC R.25 NC</p>	<ul style="list-style-type: none"> • <u>Casinos</u> <ul style="list-style-type: none"> - Designate a regulatory authority for casinos on the subject of AML/CFT. - Put in place administrative sanctions for failure to comply with CDD requirements. - Establish measures to prevent criminals or their accomplices from taking control of a casino. • <u>Other DNFBBs</u> <ul style="list-style-type: none"> - Establish administrative sanctions with respect to DNFBB failures to meet their obligations in the area of AML/CFT. - Organize, regulate, and supervise accountants, traders in precious metals and stones, and real estate agents. - Include AML/CFT powers in bar association advisory missions. - Organize and supervise the activities of notaries with respect to AML/CFT. - Develop and distribute reporting guidelines and provide reporting entities feedback on STRs.
<p>Other designated non-financial businesses and professions</p> <p>R.20 PC</p>	<ul style="list-style-type: none"> • Assess whether other non-financial businesses or professions present a risk of money laundering or terrorist financing and, if so, make them subject to AML/CFT preventive measures. • Encourage the development of modern and secure techniques for conducting financial transactions.
Legal Persons and Arrangements & Nonprofit Organizations	
<p>Legal Persons–Access to beneficial ownership and control information</p> <p>R.33 NC</p>	<ul style="list-style-type: none"> • Repeal the 2005 Anjouan Company Law. • Create a national register for the registration of companies and other legal persons, or any other mechanism that would ensure transparency. • Put in place measures to facilitate timely access to beneficial owner information. • Prevent joint stock companies formed with bearer shares from being misused by money launderers.
<p>Legal Arrangements–Access to beneficial ownership and control information</p> <p>R.34 NC</p>	<ul style="list-style-type: none"> • Ensure that there is no longer a legal framework in effect in Anjouan for establishing trusts without adequate transparency requirements.
<p>Nonprofit organizations</p> <p>SR.VIII NC</p>	<ul style="list-style-type: none"> • Adopt a specific legal framework for NPOs that includes adequate regulatory provisions on the operational, administrative, and financial transparency of NPOs in national territory, on supervisory methods, and on access to accounting documents by Comorian supervisory authorities, and provide effective methods for implementing such administrative

	<p>measures.</p> <ul style="list-style-type: none"> • Develop an information campaign for NPOs to raise the awareness of their management and employees regarding terrorist financing.
National and International Cooperation	
<p>National cooperation and coordination</p> <p>R.31 LC</p>	<ul style="list-style-type: none"> • Ensure effective implementation of domestic cooperation.
<p>The Conventions and UN Special Resolutions</p> <p>R.35 PC SR.I PC</p>	<ul style="list-style-type: none"> • Ratify additional protocols to the United Nations Convention Against Organized Transnational Crime. • Transpose into domestic law the relevant provisions of the Vienna and Palermo conventions, as well as the Terrorist Financing Convention and relevant UNSCRs.
<p>Mutual Legal Assistance</p> <p>R.36 PC R.37 PC R.38 PC SR.V PC</p>	<ul style="list-style-type: none"> • Introduce mechanisms to enable the provision of assistance in a timely, constructive, and effective manner. • Establish arrangements allowing the coordination of seizure and confiscation actions with other countries. • Introduce rules to provide that professional secrecy cannot be invoked to deny a foreign request for assistance. • Allow for the provision of mutual legal assistance involving non-intrusive measures even in the absence of dual criminality. • Provide mechanisms so that determinations can be made as to the most appropriate venues for criminal prosecution. • Set up a fund to combat organized crime or drug trafficking to which confiscated funds or property can be allocated.
<p>Extradition</p> <p>R.39 PC R.37 PC SR.V PC</p>	<ul style="list-style-type: none"> • Ensure that technical differences between the laws of Comoros and the requesting state do not constitute an impediment to extradition proceedings. • Define the FT in line with the 1999 Terrorist Financing Convention in order to expand the scope of assistance to other countries.
<p>Other Forms of Cooperation</p> <p>R.40 PC SR.V PC</p>	<ul style="list-style-type: none"> • Authorize supervisors to cooperate with their foreign counterparts. • Authorize competent authorities to conduct inquiries on behalf of their foreign counterparts and ensure that the information received is used only in an authorized manner. • Allow spontaneous exchange of information in relation to both money laundering and the underlying predicate offenses. • Allow the FIU to conduct inquiries on TF on behalf of its foreign counterparts.
Other Issues	
<p>Resources & Statistics</p> <p>R.30 NC R.32 NC</p>	<ul style="list-style-type: none"> • Grant premises, staff, training and ongoing budget to the FIU. Develop, and increase skills of supervisors, judicial authorities and law enforcement authorities involved in the prevention and suppression of ML/FT. • Allocate additional resources for the implementation of on-site and off-site supervision. • Develop the statistical apparatus on existing information (ongoing investigations, prosecutions, convictions). Once the AML/CFT framework is implemented, statistics will be required regarding freezing and confiscation, STRs, AML/CFT supervision, and domestic and international cooperation.