REPUBLIC OF KENYA

UPDATE ON THE NATIONAL RISK ASSESSMENT OF MONEY LAUNDERING REPORT 2023

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UPDATE ON THE NATIONAL RISK ASSESSMENT

OF

MONEY LAUNDERING REPORT, 2023

FOREWORD

The first Money Laundering (ML) and Terrorism Financing (TF) National Risk Assessment (NRA) for Kenya that was launched in July 2022, formed the basis for developing and prioritizing anti-money laundering and countering the financing of terrorism as well as proliferation (AML/CFT/CPF) policies for the country. For instance, we developed the National Strategy for AML/CFT/CPF 2021/26 and the National Counter-Financing of Terrorism Strategy 2023/26 as well as the attendant Action Plans to mitigate the identified risks.

The AML/CFT/CPF Strategy required that the NRA be updated periodically to accommodate the dynamic nature of the inherent risks. We therefore decided to conduct parallel, but coordinated sectoral risk assessments to enhance our understanding regarding the evolving ML/TF/PF risks and update the NRA report. For instance, we conducted ML/TF sectoral risk assessment for legal persons and legal arrangements, for TF, NPOs as well as Virtual Assets, to entrench application of risk-based approach, including risk-based AML/CFT/CPF supervision and regulation.

This update on the national risk assessment of money laundering reviews the national ML threat and the national ML vulnerability chapters of the 2021 NRA report. The 2023 update assessment considered much broader range of issues compared to the NRA, including a detailed analysis of ML techniques, methods, channels as well as type of laundering proceeds, among others. The update assessment has also analysed the ML threat along the domestic, foreign predicates as well as cross-border ML threats. Based on the foregoing, we have not only managed to update the 2021 NRA report, but also addressed some of the gaps which were identified through the AML/CFT/CPF peer review process in 2022.

I take this opportunity to thank all the stakeholders who participated in this important national exercise. The Government of Kenya is committed to implementing the recommendations of the NRA as set out in the resultant National Strategy for Countering Money Laundering 2023-2026.

PROF. NJUGUNA NDUNGU, E.G.H.,
Cabinet Secretary/National Treasury and Economic Planning.

MESSAGE FROM THE CO-ORDINATOR

In July, 2022, the Cabinet Secretary, Ministry of Interior and Coordination of National Government, Dr. Fred Matiang'i, EGH, led the country's celebrations in launching the Report of Kenya's 1st Money Laundering and Terrorism Financing National Risk Assessment (NRA), which was conducted in October 2021. To effectively implement the recommendations of the NRA report, the National Strategy for AML/CFT/CPF 2021-2026, with an attendant Action Plan, was developed. One of the key components of the Strategy was to periodically review the NRA report.

The current review of the NRA also enabled us to address some of the Recommended Actions (RAs) contained in the Kenya's Mutual Evaluation Report (MER) 2022, regarding the understanding of ML/TF/PF risks of the country and the application of risk-based approach. The RAs contained in the MER relate to the following 'strategic' deficiencies regarding the NRA: (i) that the NRA did not consider various relevant variables and vulnerabilities related to TF; (ii) the assessment of the leading proceed-generating predicate offences was mainly based on the number of cases, instead of values; and (iii) NRA did not adequately address the various types of ML, that is, self-laundering, third-party laundering, standalone-laundering, as well as the methods of laundering, including from foreign predicate offences.

I would like to express my gratitude to the Cabinet Secretary for the National Treasury and Economic Planning for the steady AML policy as well as guidance, and the NTF for the conducive forum as well as platform for AML/CFT/CPF dialogue and information sharing. I would also like to thank the World Bank for availing the risk assessment tool and methodology for our use. Finally, I thank the National Risk Assessment Update Working Group, participating institutions and personnel from both the public and private sectors for their, time, commitment, dedication and effort which has enabled us to successfully complete this exercise and update the 2021 NRA Report.

CAPT. (Rtd.) SAITOTI K. MAIKA, M.B.S.,
Director-General/Chief Executive Officer, Financial Reporting Centre

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ACRONYMS

AF	Asset Forfeiture
AML	Anti-Money Laundering
BO	Beneficial Ownership
CFT	Countering the Financing of Terrorism
ARA	Assets Recovery Agency
CBK	Central Bank of Kenya
CDD/EDD	Customer Due Diligence/ Enhanced Due Diligence
CMA	Capital Markets Authority
DNFBPs	Designated Non-Financial Businesses and Professions
DCI	Directorate of Criminal Investigations
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
EACC	Ethics and Anti-Corruption Commission
FRC	Financial Reporting Centre
FATF	Financial Action Task Force
IMT	International Money Transfer
IRA	Insurance Regulatory Authority
KRA	Kenya Revenue Authority
KWS	Kenya Wildlife Service
KYC	Know Your Customer
LEAs	Law Enforcement Agencies
MLA	Mutual Legal Assistance
ML/TF	Money Laundering and Terrorist Financing
MRP	Money Remittance Provider
MVTS	Money Value Transfer Service
NPO	Non-Profit Organization
NPS	National Police Service
NRA	National Risk Assessment, 2021
NTF	National Taskforce on ML/TF/PF
ODPP	Office of the Director of Public Prosecutions
POCAMLA	Proceeds of Crime and Anti-Money Laundering Act, 2009
PSP/MNO	Payment Service Provider / Mobile Network Operator
STR	Suspicious Transaction Report
TBML	Trade-Based Money Laundering
TCSPs	Trust and Company Service Providers
VAT	Value Added Tax

EXECUTIVE SUMMARY

The National Strategy for AML/CFT/CPF 2021-2026, which was developed following the first comprehensive Money Laundering and Terrorism Financing National Risk Assessment (NRA) in 2021, recommended continuous and periodic update of the NRA report. The 2022 Mutual Evaluation Report (MER) also identified a number of deficiencies on the NRA report, which required remedial actions, including a review process. Accordingly, a high-level Action Plan was developed and implemented to address the MER Recommended Actions, and to fulfil the periodic review obligation as per the AML/CFT/CPF National Strategy. Part of the Plan was to update the NRA through coordinated parallel sectoral risk assessments.

The current update on the national risk assessment of money laundering (ML) deals with the national ML threat and the national ML vulnerability. To address the MER concerns regarding the ML threat assessment, broad range of issues were considered, including analysing ML techniques, methods and channels (i.e., how proceeds are generated and laundered), as well as type (i.e., self, standalone or third-party laundering), among others. The assessment also analysed the ML threat along the domestic, foreign predicates as well as cross-border ML threats.

The outcome indicates that the methods of laundering funds in the country have largely remained the same as reported in the 2021 NRA. For instance, the techniques used in generating proceeds for laundering include fraud, corruption & economic crimes, tax-related crimes, bribery, trafficking drugs as well as human beings, wildlife and environmental crimes, trade-based ML, theft, among others.

Regarding the domestic ML threat, the assessment clearly confirms the NRA finding that the number of fraud and forgery related offences rank higher than other proceeds generating crimes that were investigated and prosecuted. However, corruption related offences are leading by a significant margin, in terms of value. The indication could be that fraud and forgery cases are yielding low values, in general, for laundering compared to corruption. That is, most proceeds generated from fraud and forgery related offences, are seemingly for subsistence rather than laundering. Based on the foregoing, the current assessment updates the NRA by projecting corruption and economic crimes as the leading proceeds generating predicate offences in Kenya.

Otherwise, the ranking of predicate offences in terms of high, medium and low risk remains the same as reported in the NRA.

Regarding sectoral breakdown, the banking sector was assessed to bear the highest ML threat in the country, just as reported in the NRA. Criminals find banks alluring due to their extensive cross-border networks, interbank ties, products and services offered that open themselves up to the threat of ML. Some of the international payment services offered by banks may be abused by launderers to move money around the globe, creating layers that help conceal the funds' origin.

The main foreign predicate crimes which have been identified as presenting ML threats to Kenya are money-laundering (both self, third-party and standalone), fraud, corruption, drug trafficking, bribery, theft, tax-related crimes, human trafficking and smuggling of persons, wildlife & and environmental crimes as well as cybercrime. The assessment considered UAE, Mauritius, Tanzania, Uganda, Somalia, South Sudan and Nigeria to present *High* cross border ML threat to Kenya. On the other hand, Seychelles, USA, UK, Portugal, Burundi, China, India, Ethiopia, Jersey, Rwanda, Cayman Islands, Canada, Poland, DRC, Switzerland, France, Czech Republic, South Africa, Norway, Belgium and Germany are the jurisdictions that presents *Medium* threat, while the Netherlands, Italy, Spain, Ireland, among others, present *Low* ML threat to Kenya.

The current assessment confirms the 2021 NRA's national ML Medium threat rating. The domestic ML threat level remains Medium High with a likelihood of increasing in the future, just as assessed in the NRA. The cross-border ML threat also retained the NRA rating of Medium and is also expected to increase in the future. The threat of ML from foreign predicate offences is rated Medium Low, also retaining the NRA rating. Kenya's overall ML threat is therefore assessed as Medium.

The national ML vulnerability for Kenya improved slightly from the Medium High rating in the 2021 NRA to Medium rating in the current assessment. Specifically, the national ML vulnerability reduced, while the combating ability of the country improved. These positive changes can be attributed to, among others, effective implementation of the 2021-2026 National AML/CFT/CPF Strategy as well as the implementation of the Recommended Actions contained in the MER for Kenya.

1.0. INTRODUCTION

In November, 2021, Kenya published the results of its first comprehensive Money Laundering and Terrorism Financing National Risk Assessment (NRA), which is a self-assessment process through which a country deepens its understanding of its unique money laundering (ML) and terrorism financing (TF) landscape in order to design an effective risk-based mitigation approach. The NRA involved making judgement on ML/TF threats, vulnerabilities and consequences. The outcome of the exercise formed the basis for developing and prioritizing anti-money laundering and countering the financing of terrorism (AML/CFT) policy for the country, that is, the National Strategy for AML/CFT/CPF 2021-2026 and the attendant Action Plan to mitigate the identified risks.

The rationale for the NRA were to:—

(a) assess and understand the nature, magnitude and trends of ML/TF predicate offences in Kenya. For instance, serious crimes are being committed in the country and the proceeds thereof being laundered both locally and abroad. Cases of corruption, economic crimes, fraud, cattle rustling, kidnappings (including for ransom), theft, terror attacks, tax crimes, environmental crimes, amongst others, continue to be reported by the competent authorities and the media;

(b) facilitate allocation of resources according to ML/TF risks so that high risk people, objects, activities, products, transactions and geographic areas are given commensurate priority;

(c) conduct national audit on the volumes and magnitudes of illicit/illegal funds which are laundered locally and the attendant methods as well as channels;

(d) enhance understanding of the TF architecture in the country in order to efficiently mitigate the impact of terror attacks which have been on the increase in the country, with the resultant irreparable losses suffered;

(e) develop and implement the National AML/CFT Strategy and Action Plan for the country; and,

(f) enhance the country’s compliance with the international AML/CFT/CPF obligations.

The 2021 NRA Report showed that, among others, the overall ML threat for Kenya was *Medium* with a potential for increase in the future. On the other hand, the national ML vulnerability was *Medium High*. Banking industry was assessed as the sector with the highest impact on the national ML vulnerability, largely due to the important role played by banks in the economy. Real estate, money remittance providers (MRPs), money network operators (MNOs), Saccos, legal and motor vehicle dealers' sectors were also assessed as posing significant impact to the country's national AML/CFT vulnerability. This was attributed not only to the contribution of these sectors to the economy in general, but also to the fact that the sectors had relatively weaker frameworks on ML/TF oversight.

The 2021 NRA also revealed that the main proceeds generating crime in Kenya relate to fraud and forgery. These offences include obtaining by false pretense, currency forgery, false accounting, stealing (including stealing by directors, agents, employees/servants and stealing of motor vehicles as well as motor cycles), among others. Drug related offences, including cultivation, trafficking, possession and handling of dangerous drugs, as well as corruption and economic crimes, including bribery (soliciting and accepting), unexplained wealth and embezzlement of public funds, were also rated *High* risk. On the other hand, cybercrime offences, tax related offences, money laundering and offences relating to counterfeiting and piracy of products were rated as *Medium* risk. Finally, human trafficking and smuggling of persons are assessed as low risk predicates in Kenya.

Regarding the effectiveness of the criminal justice system generally, the assessment revealed that the number of money laundering investigations in the country were still low considering that relatively large number of allegations have been reported. Additionally, most investigations and prosecutions were being conducted without considering parallel financial investigations alongside the predicate offences. LEAs were therefore, encouraged and empowered to conduct identification, tracing and confiscation of proceeds and instrumentalities crime, as well.

Between September 2021 and September 2022, Kenya underwent the 2nd Round of AML/CFT Mutual Evaluation (a peer review process) by the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) primarily to determine the effectiveness of the country's AML/CFT framework. The peer review exercise sought to determine the level of authorities' understanding of the ML/TF risks that Kenya is exposed to, and the resultant Mutual Evaluation Report (MER) was adopted by ESAAMLG Council of Ministers in September 2022.

Relating to the scope of the 2021 NRA, MER indicated several 'apparent' strategic gaps, including the following issues:—

(a) Assessors noted that the NRA did not consider various relevant variables and vulnerabilities related to TF, and that TF was mainly conceived as a predicate offence;

(b) Assessment of the leading proceed-generating predicate offences was mainly based on number of cases without considering values concerned;

(c) NRA did not adequately address the various types of ML, that is, self-laundering, third-party laundering, standalone-laundering, as well as the methods of laundering, including from foreign predicate offences.

To address the Recommended Actions contained in the MER, a high-level Action Plan was developed and implemented. Part of the Plan was to update the NRA, which was achieved through coordinated parallel sectoral risk assessments as summarised below.

1.1. Assessment Methodology

The Update on the National Risk Assessment of Money Laundering, 2023 has been informed by the 2021 ML/TF National Risk Assessment (NRA) of Kenya that recommended periodic review to incorporate the evolving ML ecosystem, and the subsequent findings of the Mutual Evaluation Report (MER) of Kenya which were released in September 2022. The assessment relied on the FATF Guidance and employed the World Bank Risk Assessment Guidance and Tool, just like the NRA. The sectoral risk assessments were conducted by key stakeholders in the respective sectors, and heavily involved the private sector.

1.2. Updating the NRA through Sectoral Risk Assessments

The NRA was conducted using the World Bank tool, which is made up of 12 modules that include the assessment on: 1) national money laundering threat; 2) national money laundering vulnerability; 3) banking sector vulnerability; 4) securities sector vulnerability; 5) insurance sector vulnerabilities; 6) other financial institutions vulnerability; 7) designated non-financial businesses and persons (DNFBPs) sectoral vulnerability; 8) national terrorist financing risks; 9) financial inclusion products; 10) environmental crimes vulnerability; 11) non-profit-organizations (NPOs) sector vulnerability; and 12) tax evasion vulnerability.

The current assessment updates module one (1) on national money laundering threat and module two (2) on national money laundering vulnerability. The ML threat, which is a function of proceeds of crime has been conceived by analysing how proceeds are generated (major predicate offences), flow (the channels and methods used) as well as the ensuing patterns. The ML vulnerability on the other hand has been updated by reviewing the 22 national vulnerability indicators which are embedded in the World Bank NRA tool.

Following the implementation of the National Strategy for AML/CFT/CPF 2021-2026 and the MER Recommended Actions, there is a slight improvement on the national vulnerability assessment, from 0.64 in 2021 NRA to 0.53, as discussed in section 3.1. However, the assessment ratings for both the national ML threat and vulnerability remain unchanged from the NRA assessment, owing to their evolving nature and the increasing level of technological innovation which is increasingly impacting on inherent risks.

Module three (3) on banking sector vulnerability was updated through the Banking Sector ML/TF Sectoral Risk Assessment in July 2023. The results of the sectoral assessment corroborated that of the NRA as the ML vulnerability for the banking sector was assessed as *Medium High*.

Module four (4) on securities sector vulnerability was updated through the Securities ML/TF Risk Profiling Report of July 2023, where the non-dealing online foreign exchange brokers had the highest average risk score, and was rated *High* risk. This was followed by investment banks, stockbrokers, fund managers, non-dealing online foreign exchange money managers and investment managers, in that order, and were rated *Medium* risk. These results confirmed the NRA assessment of the securities sector where ML vulnerability was assessed as *Medium*.

Module five (5) on insurance sector vulnerability assessment remains unchanged. On the other hand, the assessment of Module six (6) regarding other financial institutions vulnerability was updated through sectoral risk assessment for forex bureaus, payment service providers, digital credit providers and money remittance providers by the Central Bank of Kenya in 2023. The assessment ratings of these sectoral risk assessments remain largely similar to those of NRA. Module 8 on national terrorist financing risks, the 2023 national TF risk assessment rated both TF threat and vulnerability at the national level as *Medium*.

Module 11 on non-profit-organizations (NPOs) sector vulnerability was updated by the TF risk assessment for the NPO sector in Kenya as well as the TF risk assessment, which were published in September 2023. The TF risk for the NPO sector rated the threat of NPOs abuse for TF as *Medium-Low*, which is slightly different from the 2023 TF risk assessment that rated the same variable as *Medium*. However, the two assessments rated the level of vulnerability of the sector to TF as *Medium*. Given that the NRA rated the vulnerability of NPOs sector to TF as *Low*, these 2023 sectoral assessment ratings therefore review the TF risk borne by NPOs sector as *Medium*.

Module 12 on tax crimes vulnerability was not assessed during the NRA in 2021, as the relevant World Bank Guidance Manual was still under development. The tax crime risks in the country was assessed as *Medium* in August, 2023, thus updating the NRA. The ML threat from perceived incidents was rated *Medium High*; perceived proceeds, *Medium High*; known incidents, *Medium*; and known proceeds, *Medium Low*. Cumulatively, the combined ML threat posed by tax crimes in Kenya was rated *Medium High*. On the other hand, the overall vulnerability to tax crimes was assessed as *Low.*

The assessment indicated that VAT carrousel fraud/missing trader schemes posed the highest threat to the tax system. It contributed to about 70% of the tax crime schemes in Kenya. This was followed by 'use of power of attorney/nominees/directorships to hide the UBO of a legal structure' which contributed to 20% of the tax crimes. Multi-jurisdictional restructuring contributed to approximately 6% of the tax crimes, while other typologies such as recording income as loans or other non-taxable income, abuse of charitable organizations and (electronic) sales' suppression contributed to 2%, 1% and 0.4% of the tax crimes respectively, thus posing a minimal risk to the Kenyan tax administration.

Going by the cases reviewed by the assessment team, the main tax crime related ML typologies identified included the use of power of attorney and nominees which contributed roughly 52% of the tax crimes, while trade based money laundering (TBML) contributed about 34%. The contribution of purchase of high-value assets was negligible, while the abuse of trust and company service providers contributed 4%, with wire transfers roughly contributing 1%.

2.0. NATIONAL MONEY LAUNDERING THREAT ASSESSMENT

2.1. Methods of Laundering Funds in Kenya

The methods of laundering funds in the country have largely remained the same as reported in the NRA. The country remains a transit hub for major import goods enroute to landlocked East African countries such as Uganda, South Sudan, Rwanda, Burundi. Money laundering in Kenya is both complex in scale, settings and diversity of actors. There is no single classical mechanism of ML offence that consists of all the elements or all the three phases, that is placement, layering and integration. The techniques used in generating proceeds for laundering include fraud, corruption & economic crimes, tax-related crimes, bribery, trafficking drugs as well as human beings, wildlife and environmental crimes, theft, among others. Typical typologies entail opening accounts and making periodic cash deposits which do not correspond to the suspect's known sources of income. In such incidences, there may be no withdrawal from the accounts despite receiving huge sums of money which obviates a presumption of innocence.

Another ML technique in the country involve procurement irregularities where officials are influenced and/or enticed into flouting the rules and inflating the prices. Additionally, there have been prosecuted cases where drug trafficking, human trafficking and smuggling in persons, environmental and wildlife crimes have been the predominant predicate offences. In such scenario, individuals acquire massive assets using the proceeds obtained from the illegitimate trade in narcotic drugs by laundering the proceeds through proxies who conceal and disguise the source of funds used to acquire the said assets. To avoid detection, deposits are made in tranches below the reporting threshold to evade the attention of the authorities and prudential guidelines which require that an account holder declares the source of the funds.

2.2. Key Proceeds-Generating Predicate Offences

Kenya follows a whole crime approach to combating ML, rendering all proceeds generating crimes as predicate offences. The Directorate of Criminal Investigations within the National Police Service is mandated to investigate all criminal activities in the country. The National Police Service data indicate that the major offence categories of crime in Kenya are homicide, offences against morality, offences against persons (such as assault, affray and creating disturbances), robbery, breakings, theft of stock, stealing, theft by servant, vehicle and other theft, dangerous drugs, economic crimes, corruption and other penal code offences.

The National Crime Research Centre, which is responsible for collating all crime related data to inform policy decision making, indicated in the 2022 report that between the year 2016 and 2021, the most threatening crimes in Kenya were burglary and breakings, stealing, theft of stock (including cattle rustling), possession of drugs, possession of narcotic drugs, assault causing actual bodily harm, murder, robbery, rape, robbery with violence, gender-based violence, defilement, theft of farm produce, child abuse (including child neglect), theft of motorcycle, land fraud (including grabbing) and corruption.

The National Police Service (NPS) annual report (2019) showed an increase of defilement, assault, general stealing, creating disturbance, possession of drugs for personal use (Cannabis Sativa) and malicious damage which were associated mainly with consumption of alcohol. However, there was a notable decrease in stealing by servant, theft of stock, stealing from person and theft of motor cycle. Additionally, terrorism, cattle rustling, influx of illegal aliens and undocumented immigrants and proliferation of illegal firearms and light weapons were classified as the major causes of insecurity in Kenya. However, the similar NPS report in 2021 on comparative crime figures for the years 2019-2021 showed an increase in every category of crime compared to the same periods previously, except for offences against morality, traffic offences and corruption which recorded a decrease.

The comparative figures of crime patterns in Kenya from 2019-2021 is summarised in Table 1. from the NPS statistics.

Table 1: Comparative Crime Figures for the Years 2019-2021

Category of Offences	2019	2020	Diff.	%Diff.	2020	2021	Diff.	%Diff.
Homicide	2971	3111	140	4.7	3111	3281	170	5.5
Offences against morality	8051	9153	1102	13.7	9153	8182	-971	-10.6
Other offences against persons	27196	19288	-7908	-29.1	19288	22365	3077	16.0
Robbery	2858	2384	-474	-16.6	2384	2456	72	3.0
Breakings	5976	4252	-1724	-28.8	4252	4973	721	17.0
Theft of stock	1962	1556	-406	-20.7	1556	1964	408	26.2

Stealing	13954	8709	-5245	-37.6	8709	11762	3053	35.1
Theft by servant	2226	1467	-759	-34.1	1467	1798	331	22.6
Vehicle and other thefts	1298	1031	-267	-20.6	1031	1278	247	24.0
Dangerous drugs	8011	4477	-3534	-44.1	4477	5743	1266	28.3
Traffic offences	341	186	-155	-45.5	186	123	-63	-33.9
Criminal damage	4852	3530	-1322	-27.2	3530	4627	1097	31.1
Economic crimes	4786	3488	-1298	-27.1	3488	4004	516	14.8
Corruption	130	133	3	2.3	133	96	-37	-27.8
Offences involving police officers	77	64	-13	-16.9	64	75	11	17.2
Offences involving tourist	48	26	-22	-45.8	26	31	5	19.2
Other penal code offences	8674	6790	-1884	-21.7	6790	8514	1724	25.4
Grand Total	93411	69645	-23766	-25.4	69645	81272	11627	16.7

Source: National Police Service Annual Crime Report, 2021

2.3. Domestic ML Threat

The ML threat analysis considered the level and trends of predicate offences that are generating proceeds, their origin, sectors which are abused and cross-border threats in the country. The proceeds generating predicates were further categorised into thematic areas to ease the analysis given that law enforcement statistics relating to investigations of offences as provided for under the Penal Code, are classified in clusters. As a matter of practice and policy direction, Kenya has prioritized identification of proceeds generating predicate offences and high-risk ML activities/types in both investigation and prosecution, meaning there would be a more risk-based approach by the authorities to ML interventions. Tables[1] 2 and 3 illustrate the level of prosecution and conviction of ML predicate offences for financial years 2021/2022 and 2022/2023.

[1] Source: ODPP statistics

Table 2: ML Predicate Offences for FY 2021/2022

S/No.	Type of Offence	New cases Registered	Convictions on					
			Plea of Guilty	Plea Bargain	After Full Trial	Acquittal	Withdrawal	Conviction Rate (%)
1.	Theft and stealing	18,441	3,509	228	4,146	1,227	4,327	87
2.	Human trafficking offences	224	59	4	74	23	18	86
3.	Forgery and false pretenses and various forms of fraud	727	45	8	198	70	163	78
4.	offences relating to drugs	7,411	2,118	239	2,221	423	638	92
5.	Environmental crimes under environmental management and co-ordination act; forest conservation & management act	833	449	9	105	39	106	94
6.	Wildlife crimes	1,050	494	4	197	53	50	93
7.	Cyber-crime offences under the Kenya information and communication act	176	60	0	51	14	17	89
8.	Tax related offences (tax evasion)							
9.	Offences relation to coin, bank & currency notes (counterfeiting coins, stamps, trade marks)	65	11	0	13	8	17	75
10.	Land cases	242	45	1	38	24	47	78
11.	Economic crimes (obtaining property by false pretense)	4,147	326	73	746	316	1,001	78

Table 3: ML Predicate Offences for FY 2022/2023

S/No	Type of Offence	New cases	Convictions on					
			Plea of Guilty	Plea Bargain	After Full Trial	Acquittal	Withdrawal	Conviction Rate (%)
1.	Theft and stealing	24,140	4,980	227	5,503	1,507	5,167	88
2.	Human trafficking offences	291	140	2	53	12	24	94
3.	Forgery and false pretenses and various forms of fraud	1,006	81	12	374	107	207	81
4.	Offences relating to drugs	9,213	3,731	70	2,815	426	852	94
5.	environmental crimes under environmental management and co-ordination act; forest conservation & management Act	1,806	952	1	180	51	142	96
6.	Wildlife crimes	1,216	466	28	118	46	123	93
7.	Cyber-crime offences under the Kenya information and communication act	80	28	1	9	1	15	97
8.	Tax related offences (tax evasion)	12	0	0	0	1	19	0
9.	Offences relation to coin, bank & currency notes (counterfeiting coins, stamps, trade marks)	87	13	0	24	10	10	79
10.	Economic crimes (obtaining property by false pretense)	4,243	299	15	1,024	357	978	79
11.	Land cases	143	32	0	40	10	14	88

The MER observed that the NRA relied mainly on the prevalence of cases, instead of values, to determine the key proceeds generating predicate offences. This 2023 update on the NRA has factored in both the number of cases and corresponding value(s) to rank the risks posed, as shown in Table 4 for the period 2021-2023.

Table 4: Values of Proceeds Generating Predicates Investigated from 2021-2023

S/No.	Predicate Offence	Cases	Values (US$)
1.	Corruption and economic crimes	94	299,342,484
2.	Fraud and forgeries	1,938	104,072,668
3.	Tax related crimes	104	87,332,342
4.	Money laundering	34	84,159,577
5.	Cyber crimes	614	6,471,917
6.	Drug related offences	2,642	5,675,853
7.	Human trafficking	432	3,154,255
8.	Wildlife crimes	889	1,151,297

Source: DCI statistics

Out of the 34 ML cases, 28 were investigated by DCI and 6 by EACC. The ODPP has approved 18 of the cases for prosecution, 11 cases have been referred back to DCI and EACC for further investigation, with pending determination on the remaining 5 cases. During the same period, the values of proceeds generating predicate offences prosecuted are presented in Table 5.

The 2023 tax crimes risk assessment exercise identified the following typologies regarding tax crimes related money laundering in Kenya:

I. Use of power of attorney and nominees (professional ML)

The typology takes place through layering, direct ownership chains, as well as professional intermediaries and third parties exercising control on behalf of the beneficial owners. The typology contributed 52% of all the ML-related cases reviewed.

II. Trade based money laundering (TBML)

This involves the use of trade transactions in an attempt to legitimise the origin of proceeds of crime. The scheme contributed 34% of the reviewed ML-related cases.

III. Purchase of high-value assets

This is the process of acquisition of high value assets, including expensive cars, precious stones and metals, real estate, antiques, among others, for purposes of hiding of proceeds of crime. This typology contributed 10% of the reviewed ML-related cases.

IV. Abuse of trust and company service providers

The use of trust and company service providers wittingly or unwittingly, in the conduct of money laundering activities, contributed to about 4% of the cases reviewed.

V. Wire transfers

A wire transfer is an electronic transfer of funds via a network that is administered by banks and transfer service agencies around the world. Residents use wire transfers to move illicit cash from one jurisdiction to another. Some financial institutions collude with unscrupulous residents to transfer huge sums of money from one tax jurisdiction to another without the knowledge of regulatory agencies. This scheme contributed to approximately 1% of the cases reviewed.

Table 5 Values of Proceeds Generating Predicates Prosecuted from 2021-2023

Type of Offence	Year			Number of Cases	Total
	2021	2022	2023		
Corruption offences	50,690,691	67,335,253	59,660,551	69	177,686,495
Fraud and forgery	2,957,705	39,887,466	23,725,378	1,592	66,390,549
Tax related offences	32,578,781	1,278,389	7,557,100	68	41,414,270
Other predicate offences	2,922,749	7,488,571	10,299,206	1,829	20,710,527
Stealing	1,987,324	3,301,479	2,600,000	211	7,888,803
Drug related offences	27,327	1,618,415	756,497	502	2,402,239

Source: ODPP statistics. Figures in US$

Tables 4 and 5 clearly indicate that while the number of fraud and forgery related offences rank higher than other proceeds generating crimes that were investigated and prosecuted, corruption related cases are leading by far, in terms of value. Going by the number of cases and the corresponding values, the indication could be that fraud and forgery cases are yielding low values, in general, for laundering compared to corruption.

Table 6 presents the trend analysis for the predicate offences in line with the country's risk assessments of 2021 and the 2023 update. Generally, the trends for proceeds generating predicate offences in 2023 has remained unchanged from the NRA assessment.

Table 6: Analysis of Predicate Offences Trends for the 2021 NRA and 2023 Update

S. No.	Predicate Offences	2021 NRA	2023 Update	Trend
1.	Fraud and forgery	High Risk	High Risk	No change
2.	Drug related offences	High Risk	High Risk	No change
3.	Corruption & economic crimes	High Risk	High Risk	No change
4.	Wildlife crimes	Medium High Risk	Medium High Risk	No change
5.	Environmental crimes	Medium Risk	Medium Risk	No change
6.	Cyber crimes	Medium Risk	Medium Risk	No change
7.	Tax related offences	Medium Risk	Medium Risk	No change
8.	Human trafficking	Medium Low Risk	Medium Low Risk	No Change
9.	Money laundering	Medium Low Risk	Medium Low Risk	No change
10.	Terrorism financing	Medium Risk	Medium Risk	No Change

2.3.1. High risk predicate offences in Kenya

The NRA established that fraud and forgery related offences presented the high ML risk to the country and was ranked top among the highest proceeds generating predicates. These offences include obtaining by false pretense, currency forgery, wire fraud, insurance fraud, investment fraud, banking fraud, false accounting, stealing (*including stealing by directors, agents, employees/servants and stealing of motor vehicles*), among others. The analysis was majorly based on the number of cases documented, as reported in the MER. Corruption and economic crimes is the leading proceeds generating predicate offence in Kenya by value and remains rated high risk, like in the NRA. These offences are mainly relating to bribery (soliciting and accepting), unexplained wealth, embezzlement of public funds, abuse of office, among others.

Similarly drug related offences, including cultivation, trafficking, possession and handling of dangerous drugs also presents high ML risk to the country. This is because drug trafficking generally yields relatively high proceeds with large volumes of return, so that a single incident can have huge negative impact on the economy. Just like the NRA, the major types of dangerous drugs found in Kenya include Cocaine, Heroin, Ryphenol, Cozepam, and Cannabis.

The transnational element in drug trafficking is demonstrated by a 2018 Presidential Order that authorized destruction of a luxury yacht in the Indian Ocean that was suspected to be involved in drug trade. At the time of destruction, the yacht contained a drug haul worth KES 22 million. The drug syndicate involved a Seychellois tycoon Clement Serge Bristol indicating the transnational nature of the crime. In fact, the Seychelles NRA report indicates that there is a high ML threat from hard drugs coming mainly from Kenya where it is smuggled to Seychelles through mechanisms for legitimate trade and couriers.

2.3.2. Medium Risk Predicate Offenses

The 2023 assessment in sync with the 2021 NRA by considering environmental and wildlife related crimes to present medium to medium-high level of ML risk. These crimes relate to illegal wildlife trade, killing of wildlife, illegal possession of wildlife and the illegal trade in waste polluting products. Although the risk assessment presents medium-high risk on wildlife crimes, a Special Typologies Project on Poaching, Illegal Trade in Wildlife and Wildlife Products and

Associated Money Laundering in the Region by ESAAMLG[2] revealed that porous borders provide easy access to countries national parks. High growth in demand of some related products like, rhino horns and elephant tusks, are some of the factors that can contribute to a higher ML risk assessment for Kenya.

Cybercrime offences, tax related offences, money laundering and offences relating to counterfeiting and piracy products are rated as medium risk. The medium rating for these predicate types is attributed to the relatively sound legislative framework in the country, which has been bolstered by the enactment of Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Act, 2023. The structural provisions obligate the supervisory bodies to undertake AML/CFT supervision as a proactive control measure through a risk-based approach. Additionally, the formal sector of the economy has structural mechanisms for detecting and preventing the abuse of the financial system for money laundering purposes.

The 2023 assessment updates the rating for human trafficking and smuggling of persons to medium risk, from the low risk assessment in the NRA. This is because of the geographic factors, among others, that Kenya occupies in a politically volatile neighbourhood where many economic immigrants and others flee political instability in their countries. As a result, there have been increasing influx of illegal aliens and undocumented immigrants mainly from the neighbouring countries, like Tanzania, Ethiopia, Eritrea, Somalia and South Sudan as well as from other countries including Nigeria, Rwanda, Burundi, Congo and China.

The level of ML threat from domestic proceeds remains Medium High, maintaining the assessment level of the NRA Report, 2021. This trend is attributed to the fact that most of the common predicates presenting high risk to Kenya are from offences that do not have linkages with transnational organised crime.

2.4. Origin and Breakdown of Proceeds Generating Offences

The assessment team analysed laundered proceeds from offences committed domestically as well as those that were committed outside Kenya or those that passes through Kenya as a transit point. The aim of this analysis was to establish the patterns regarding the jurisdictions of origin of proceeds of crimes that are prevalent in the country. Data from investigative authorities including

[2] Typologies Report on the Wildlife Crimes and Related ML.pdf (esaamlg.org)

the DCI, EACC, KRA and the ODPP was considered in this analysis for the period between the years 2021 to 2023. Analysis also included cross-border data that was provided by the authorities to identify jurisdictions that were most relevant to Kenya in terms of geographical, cultural and economic ties.

2.4.1. Foreign Predicate Offences

Kenya's economy is the largest in the East Africa region, providing access to the region in terms of travel, tourism and trade. The country has one of the largest and most sophisticated financial sectors in Africa with an elaborate financial system, attracting both regional and global subsidiaries. The largest financial sector in Kenya is the banking sector, which is closely followed by the capital markets sector. Diaspora remittance inflows increased to approximately US$ 3.7 billion in 2021. The cumulative inflows for the 12 months to March 2023 totalled US$ 4.02 billion, compared to $3.912 billion in a similar period in 2022.

Important to note is that the relative stable government and an established rule of law, amidst unstable governments in the region presents an appetite for investments in the country from neighbours. All these factors are instructive of the flow of monies into the country's financial system in terms of trade, diaspora remittances and investments, albeit contributing to economic growth, but also presenting significant illicit financial flows risk.

The main predicate crimes presenting international threats to Kenya from 2021-2023, include fraud, drug trafficking, corruption, terrorism financing and money laundering, as shown in Tables 7, 8 and 9.

Table 7: Foreign Predicates Based on Received FIU-FIU Requests

S/No	Predicate Offence	2020	2021	2022	2023	Number of Requests
1	Money laundering	11	10	13	17	51
2	Fraud	4	3	4	2	13
3	Tax crimes	2	3	2	2	9
4	Terrorism financing	2	2	2	1	7
5	Drug trafficking	1	1	1	2	5
6	Human Trafficking	2	0	0	0	2
	Total	22	19	22	24	**87**

Table 8: Predicate Offences Based on Received International Requests

Requesting State	Offences	Type of Laundering	Estimated Value (KES)
Poland	Fraud	Fraud	Unknown
United States	Fraud and ML	Third party	168,663,945.00
Ethiopia	Corruption and ML	Self	129,000,000.00
Portugal	ML	Third party	118,400,000.00
UAE	ML	Third party	25,092,600.00
France	Drug trafficking	Third party	40,687,987
Germany	ML	Self/Stand alone	24,000,000.00
Poland	ML	Third party	410,215,210.00
Germany	Fraud	Third party	19,497,596.80
Netherlands	Fraud	Self	200,000,000
Rwanda	ML and TF	Third party	Unknown
Czech Republic	ML	Third party	1,350,000,000.00
Ireland	ML	Third party	5,088,000.00
Spain	ML	Self	10,326,400.00
Poland	ML	Third party	Unknown
		Total Value	**2,728,947,696.80**

The indication as per the information contained in Tables 7 and 8 is that the foreign predicate offences being investigated by LEAs are predominately related to fraud, money laundering, tax crimes and terrorists financing.

As shown in Table 8 regarding international requests, the total estimate of requests amount to over KES 2.7 billion with 2 unknown values which could not be established. The highest request concern third party ML cases from the Czech Republic, worth KES 1.35 billion. These requests amount to almost half of the total amount on the international requests made during the assessment period. It is also important to note that where ML has been identified in some instances, no specific predicate has been included.

From the region, Rwanda and Ethiopia are the two countries which featured prominently. The assessment team was unable to establish the values from two (2) countries, Poland with regard to fraud and ML and Rwanda on ML as well as TF.

Table 9: FIU-FIU Requests Based on Requesting Country

S/No	Country	2020	2021	2022	2023	Grand Total
1	United Kingdom	7	0	0	2	9
2	Mauritius	1	0	1	7	9
3	South Africa	1	4	2	0	7
4	Mozambique	1	2	3	0	6
5	Rwanda	1	1	3	0	5
6	Seychelles	2	0	3	0	5
7	Qatar	0	0	3	1	4
8	Turkey	1	1	1	0	3
9	India	1	0	1	1	3
10	Uganda	1	1	0	1	3
11	Qatar	0	0	3	1	4
12	Senegal	1	0	1	0	2
13	Sri Lanka	1	0	0	1	2
14	Zambia	0	1	0	1	2
15	Slovenia	1	1	0	0	2
16	South Sudan	0	1	1	0	2
17	Others	3	7	0	9	19
	Total	**22**	**19**	**22**	**24**	**87**

In terms of offences committed in foreign jurisdictions, there were 200 investigated cases in which money was laundered here in Kenya from 2021-2023. The amount of proceeds confiscated by the authorities from the foreign predicate cases, amounted to over KES 2 billion.

Kenya has also leveraged and banked on good international cooperation to counter the impact of foreign predicate offences, as highlighted in the following case examples:

Case example 1 - Repatriating recovered proceeds to Tanzania*: In July 2019, Kenyan Government repatriated gold worth about KES 168 million and more than KES 15 million (in cash) to the Tanzanian Authorities. Earlier in March 2018, LEAs in Kenya and Tanzania collaborated to intercept and recover the said items from a suspect who was arrested at the Jomo Kenyatta International Airport. Investigations revealed that the recovered gold was part of a heist from Tanzania's National Bank of Commerce (NBC) in Moshi, alongside more than KES 180 million cash in US Dollars, Kenyan shillings and Tanzanian shillings[3]. The prime suspect,*

[3] https://www.theeastafrican.co.ke/tea/news/east-africa/kenya-hands-over-seized-gold-to-tanzania-1423378

P.A.N, was also later arrested in Kenya and repatriated to Tanzania for prosecution in January 2019.

During the handover of the recovered items, the President of Kenya, Mr. Uhuru Kenyatta, said the following to Tanzanian President Mr. John Pombe Magufuli, on phone, *"My brother, I say we continue working together and Kenya and Tanzania has no borders as we agreed. We should help one another to fight corruption and to return money stolen from our people so that we build roads and connect our people to electricity,".*

Case example 2 – Chickengate scandal*: This was a case involving bribery of English nationals[4] in the procurement of contracts for supply of ballot papers. It started with the pay-out of millions of shillings in what the Courts in the United Kingdom described as bribes to Kenyan election officials by a British company. The illicit deals were carried out under the code name 'chicken' essentially to award lucrative printing contracts. The UK through National Crime Agency conducted investigations resulting in two Englishmen being tried and convicted under the English Bribery Act and confiscation orders made. The Company was also found guilty and fined £2.2 million.*

Kenya recovered KES 52 million from the "Chickengate" scandal, which the Ethics and Anti-Corruption Commission (EACC) confirmed was part of proceedings to repatriate assets of the London-based security printer. The repatriated funds were later used to buy seven (7) ambulances that were distributed to vulnerable areas through the Ministry of Health.

Case example 3 – FRACCK*: The Framework for the return of assets from crime and corruption in Kenya (FRACCK) was signed by the Government of the Republic of Kenya, the Swiss Federal Council, the Government of the United Kingdom and the Government of Jersey, to provide the framework for effective and expeditious repatriation of proceeds of crime and corruption that have been illegally transferred in other jurisdictions. In 2022, the Government of Jersey and Kenya reached an agreement for repatriation of £3 million to support Kenya's Government's response to the COVID-19 pandemic. The funds were confiscated by Jersey authorities in 2016, following the successful conviction of Windward Trading Ltd. for money laundering offences.*

[4] https://www.businessdailyafrica.com/bd/economy/how-uk-sleuths-unearthed-kenya-chickengate-scandal-2073226

Case example 4[5] - Multi-jurisdiction structuring of funds and TBML*: The scheme involved an established company in Kenya (subject company) owned by a shell company registered in a tax haven outside Kenya, which is further owned by another company based in a third country. The shell company registered in the tax haven country advanced loans to the Kenyan company at an agreed interest rate. The Kenyan company has a sister company in Kenya involved in manufacturing. The sister company sold its products to the subject Kenyan company which was involved in distribution of the products to the market.*

The sister company through its employees registered other companies in Kenya and opened bank accounts in the names of those other companies. The registered owners of these companies were Kenyans but the account signatories were employees of the sister company. These other companies did not trade but had huge sums of money deposited in their bank accounts held in various banks in Kenya. The money was deposited in both cash and cheques. The cash deposits were made by employees of the subject taxpayer.

The subject company requested some customers to write cheques in favour of the associated local companies that were then deposited in their accounts. The money was then transferred to the dollar denominated accounts held by the same companies before being wired to the holding company in the third country purportedly to purchase stock.

The subject company did not declare income corresponding with diverted funds. Examination of customs database indicated that these companies never imported any goods. Therefore, the transfer of cash to the holding company could not have been for purchase of stock. In the end, the products manufactured by the sister company in Kenya was sold to the subject company which subsequently sold the same without reporting the sales for tax purposes and transferred the cash to the holding company outside Kenya to conceal the non-declaration.

The tax crime typology deployed in this case, include creation of multi-jurisdiction structuring of funds, local structuring using hidden accounts in the name of associated entities, TBML, using employees to register companies to hide beneficial ownership as well as reporting income as related party foreign loans.

[5] KRA – Tax Crimes National Risk Assessment Report, 2023. The source also applies for case examples 5 and 6.

Case example 5 – Foreign structuring through legal structures*: Company Y registered in country M owned 100% shareholding of Company Z also registered in the same country M. Z owns 100% shareholding of Company ZZ registered in Kenya. Y disposed 30% of its shareholding in Z to Company A, registered in country F at KES 5.2 billion. Based on the information shared by the tax administration in country M, it was established that the directors of Y are also the directors of ZZ. The directors are resident in Kenya and exercise control of the affairs and business of Y from Kenya. Consequently, Y was obligated under section 15 of the Tax Procedures Act, 2015 to appoint a tax representative in Kenya to file returns and pay taxes in Kenya. By failing to do so, KRA appointed ZZ as Y's tax representative and issued it with tax assessment of KES 1.8 billion. The whole arrangement was designed to defeat the tax system.*

Y disputed the assessment and subsequently appealed the KRA's objection decision to the Tax Appeals Tribunal (TAT). TAT issued a judgment on the matter in August 2023, dismissing the appeal in favour of KRA.

The typology used in this case was multi-jurisdiction structuring where resident individuals used legal structures registered in other jurisdictions to conceal disposal of part of the shareholding in their local company to another entity registered in a different jurisdiction and failed to pay Capital Gains Tax arising from the transaction.

Case example 6 – Foreign structuring through legal arrangements: *X, which is registered in Kenya as a limited liability partnership, purchased about 452 million shares in B holdings limited, resident in Kenya from a non-resident entity registered in country M. It later sold off the shares in two transactions realizing some gains from the overall transaction. The partners of X did not declare the profit in their individual income tax returns. According to section 3 of the Income Tax Act, a partnership is not a taxable person hence the requirement for partners to declare partnership profits in the profit sharing ratios and pay the corresponding taxes. X has two partners, an individual and an incorporated entity in company M. This income was brought to charge on both persons as business income since the purpose for the formation of the partnership was to invest funds provided by partners.*

The KRA investigated the matter and obtained information and evidence from country M, regarding the legal ownership, BO and bank information, to finalize the case. An assessment amounting to KES 1.575 billion was issued on the partners for taxes not paid.

This typology concerns a multi-jurisdiction structuring involving Kenya and country M, as well as the use of non-taxable special purpose vehicles, that is limited liability partnerships, to execute the transactions and evade taxation.

Based on the foregoing, the main foreign predicate crimes which have been identified as presenting ML threats to Kenya are money-laundering (both self, third-party and standalone), fraud, corruption, tax-related crimes, drug trafficking, bribery, theft, human trafficking and smuggling of persons, wildlife and environmental crimes as well as cybercrime.

From the analysis, the threat of ML from offences committed in foreign jurisdiction but with the proceeds laundered in Kenya is considered *Medium Low*, with no prediction for a significant change in the future. This position confirms the assessment verdict of the NRA.

2.4.2. Cross Border ML Threat

Kenya shares borders with 5 countries and is also a major sea trading route given its international waters within the Indian Ocean. Additionally, Africa is the largest market for passenger flows to and from Kenya at 70.4%, followed by Europe at 13.1% and Asia-Pacific at 6.4%. On economic geography, there are strong trade ties between Kenya and other countries that signify large transactions involving cross border wire transfer of funds. Additionally, Kenya is a financial hub in the region, with Kenyan banks having subsidiaries across the region and beyond. For instance, there are subsidiaries and branches of Kenyan banks in Somalia, DRC, Uganda, South Sudan, and Tanzania, among others. All these factors can potentially enhance cross-border ML threat by facilitating concealment, disguising or comingling of funds.

In this regard, the amounts of inflows and outflows from jurisdictions considered close to Kenya in terms of geographical, cultural and economic ties were analysed. Further, the analysis considered the cash declarations at Kenya's entry and exit points and established that there were 900 cross border cash declarations for the period between 2021 – 2023. Diaspora remittances into the country for the period 2021 to 2023 amounted to about US$ 11.63 billion.

The United States (US), United Kingdom (UK), United Arabs Emirates (UAE), China and India are reported as being the jurisdictions of residency for many customers or BOs as well as controllers'/fund investors (over 50%). Most of these jurisdictions are also financial centres which makes them more susceptible to imported risk. Additionally, a large proportion of

Kenyans are living/working or have lived/worked in these jurisdictions. On the other hand, significant workforce from these jurisdictions have lived/worked in Kenya. Based on the ongoing, there are strong connections of Kenyans with these jurisdictions, thus the perceived cross-border ML threat can be relatively lower than is the case in reality. However, the LEAs linkages with some of these jurisdictions, particularly US and UK, are some of the strongest, and their response when the LEAs in Kenya reach out for MLA has been very positive. The factors highlighted above, however, imply that the respective countries remain high ML threat jurisdictions for Kenya.

The diaspora remittance is also mainly derived from North America (about 50%), UK (about 20%), while the rest is from Europe and rest of the World. Trade-Based ML (TBML) cases involving several countries have been reported, key among them UAE, Mauritius, Nigeria, China and Burundi. Other than TBML, Nigeria has also featured prominently on ML predicate offences relating to fraud and forgery, especially electronics fraud. South Africa on the other hand has featured on cases involving human smuggling and trafficking, with fake and illicit gold from the region, especially the Democratic Republic of Congo (DRC), also dominating among the foreign predicates.

Deeper analysis of the cases presented in examples 5-7 revealed that UK, Norway, Belgium and France are the top jurisdictions of the incoming tax crime proceeds' generating predicates laundered in Kenya (incoming). On the other hand, Mauritius, UK, UAE, Cayman Islands, Canada and Germany are the top destination jurisdictions of the predicate tax crime proceeds committed in Kenya (outgoing).

Based on the foregoing and based on a wholesome consideration of all predicate offences, the assessment considered UAE, Mauritius, Tanzania, Uganda, Somalia, South Sudan and Nigeria to present *High* cross border ML threat to Kenya. On the other hand, Seychelles, USA, UK, Portugal, Burundi, China, India, Ethiopia, Jersey, Rwanda, Cayman Islands, Canada, Poland, DRC, Switzerland, Czech Republic, South Africa, Norway, Belgium, France and Germany are the jurisdictions that presents *Medium* threat, while the Netherlands, Italy, Spain, Ireland, among others, present *Low* ML threat to Kenya. In general, the cross-border ML threat for Kenya is assessed to be *Medium*, with a potential of increase in the future.

2.4.3. Sector Breakdown

Given the size, complexity, importance and the relative volumes of transactions, the banking sector is considered the largest and most prominent financial sector in the Kenyan economy. It is therefore expected that there will be high number of activities involving the banking sector and equally high volumes of transactions from the domestic and international transactions. The other non-bank financial sectors are also fairly developed and sophisticated. Additionally, the DNFBPs sector in the country is also very wide-spread representing a substantial segment of Kenya's economy. The sector presents use of subsector such as the real estate, professional bodies (lawyers, accountants and company secretaries) through which significantly high volumes of transactions occur.

The objective of the sector breakdown is to understand ML threat as it materialises in different sectors of the economy by examining how the proceeds are being invested and laundered in each of the identified sectors. The cases analysed in this assessment showed that ML investigations mainly involved the following sectors; banking, real estate, lawyers, car dealership, insurance, money remittances, money value transfer services (MVTS), Casinos (including betting and gaming) and VASPs.

I. Banking Sector

The banking sector in the country plays an important role in the cross-border transfer of funds given that majority of the top-tier banks have regional subsidies and correspondence relationships. To this extent, the banking sector is central in Kenya's financial and economic activities. As reported in the NRA, the threat of ML in the banking sector is still considered *High* with a likelihood of increasing, and is the sector most likely to be abused for ML. This can be attributed to financial inclusivity which has led to majority of Kenyans transacting through the banking system and the fact that nearly all mega transactions are facilitated by banks. Therefore, it is easy to cite the involvement of this sector in most proceedings relating to economic crimes. However, this is only indicative of the risk exposure and not necessarily that banks do not have systems in place to detect ML and mitigate against the threat.

During the assessment, it emerged that nearly all fraud and forgery cases in the country were being facilitated through the banking sector. This could be attributed to the fact that the banking sector invokes public confidence, which criminals are apparently taking advantage of.

The main products/services offered by the banking sector and observed to feature prominently in ML cases are current accounts, deposit accounts and transactional accounts. These products have been used mainly to perform cash deposits/withdrawals and bank transfers and place funds in fixed deposit. Kenyan banks have also evolved by adopting technology that facilitates electronic transactions and transmission through different financial channels such as the mobile money networks, remote accounts and transfer of access rights to deposit accounts to third parties making the sector attractive to ML through the use of technology. The adoption of non-face to face apps for on-boarding of customers and carrying out of transactions has made the sector riskier and alluring to criminals.

It is also an industry practice that all large transactions have to be paid through the banking system, therefore the volume of financial activities in our economy that are processed through the banking sector exposes them to the threat of abuse for ML.

Exposure to Kenya's banking system to the international business also increases the risk of ML within the banking sector. The value of export transactions made through the banking system between 2020 and 2023 is approximately KES 3 trillion while the imports were valued at KES 8 trillion. By the sheer size and the broad customer base engaged in cross border financial activities between Kenyan banks and their regional subsidiaries and correspondents, there underlies an inherent risk for ML.

Criminals find banks alluring due to their extensive cross-border networks, interbank ties, and products and services that open themselves up to the risk of ML. Some of the international payment services offered by banks may be abused by launderers to move money around the globe, creating layers that help conceal the funds' origin.

Case example *7: Investigations were guided by an intelligence report from Financial Reporting Centre (FRC) which led to the arrest of three suspects for Acquisition of Proceeds of Crime Contrary to Section 4(a) as read with Section 16(1) (a) of the Proceeds of Crime and Anti-Money Laundering Act. The accused persons registered 19 mobile accounts using several ID cards belonging to unsuspecting individuals and jointly received KES 37,821,548 from international money transfer. They eventually withdrew the same through 2 AB till numbers, AG Bank, AF Bank, AA Bank and AS Bank. The mater is still ongoing in Court.*

In terms of mitigation, although the threat for ML within the sector is considered High, considerations on the ongoing aggressive pursuit of fraud and corruption cases and the steep sanctions/fines imposed on banks who are not complying with AML/CFT measures are considered effective to deter exploitation of the banking industry for ML purposes.

II. Money Value Transfer Services (MVTS)

Money or value transfer services (MVTS) are mainly provided by payment service providers (PSPs). PSPs are licensed (authorised) by the CBK under the National Payment System Act and National Payment System Regulations, 2014. The main PSPs are mobile money service providers (MMSPs). They mainly provide mobile money services through agents who are spread throughout the country. This brings convenience and ease of access to mobile financial services. The main services are cash transfers, cash withdrawals, payment for goods and service and mobile banking services.

Through partnerships with banks and money remittance providers, mobile money financial services have linkages with international money transfer services. The partnerships enable senders of money from outside Kenya to send money directly to the electronic wallets (e-wallets) of the recipients in Kenya. However, this service may be exploited for ML where fake/stolen identification documents are used to conceal the true identity of the person transacting.

Other MVTS ML threats include, online payments/global payments done through untraceable IP addresses, presence of informal money transfers businesses and reliance of third parties such as agents and IMT partners who fail to adhere to preventative measures may be exploited for ML.

Case example 8*: Investigations were guided by an intelligence report from FRC which led to the arrest of one suspect by the name BD. He was charged with the offence of Acquisition of Proceeds of Crime Contrary to Section 4(a) as read with Section 16(1) (a) of the Proceeds of Crime and Anti-Money Laundering Act. Investigations revealed that the accused person collected several ID cards from his relatives located within BXX region in Kenya and fraudulently used them to register sim cards which he eventually used to receive money from Country BG. 10 sim cards were used to receive a total of KES 11,293,474, and withdrawn through 41 BY till numbers. The matter is still ongoing in Court.*

Case example 9*: Investigations were guided by an intelligence report from FRC which led to the arrest of two suspects CMM and CXK.The accused persons were charged with the offence of Acquisition of Proceeds of Crime Contrary to Section 4(a) as read with Section 16(1) (a) of the Proceeds of Crime and Anti-Money Laundering Act. CMM received a total of KES 8,794,189 through two CG accounts numbers 07xxxxxx30 and 07xxxxxx04. The said amounts were later withdrawn using two CY till numbers, all registered under CW Ltd. CXK received a total of KES 1,462,314 using two CG accounts 07xxxxxx91 and 07xxxxxx29 and later withdrew through CY till number registered under CZ Ltd. The matter was heard and the suspects were convicted and fined.*

The assessment rated the ML threat borne by MVTS sector as Medium High.

III. Remittances sector

The value of inflows and outflows for the Money remittance providers (MRPs) for the period 2021-2023 amounted to KES 946 billion. The inflows were largely from North America and Europe, with a sizable amount from the rest of the World.

MRPs enable fast and effective movement of funds domestically and internationally, exposing the subsector to significant foreign jurisdiction risk. The geographical expansion of cross border remittance services to key economic zones such as North America, Europe and other parts of the World provide an avenue for criminals to transfer and disperse proceeds of crime to diverse parts of the World. However, the risk-based approach adopted to supervise MRPs has ensured implementation of adequate AML/CFT controls to dissuade criminals from abusing the subsector.

For the year 2021 to 2023, MRPs filed 29 STRs amounting to KES 30.4 million. This amount is considered relatively low when compared to the KES 5.6 billion worth of STRs filed by banks, in the same period. This is despite the fact that MVTS features like acceptance of cash, cheques, other monetary instruments or other stores of value and the payment of a corresponding sum in cash or other forms to a beneficiary through a communication, message, transfer, or through a clearing network to which the MVTS provider belongs, can endear them to ML abuse. Furthermore, transactions performed by such services can involve one or more intermediaries and final payment to a third party and may include new payment methods. Sometimes these services have ties to geographic regions and are described using a variety of specific terms, including *hawala* among others. Two examples of case studies are outlined here below.

Case example 10*: Two suspects were charged with the offence of Acquisition of Proceeds of Crime Contrary to Section 4(a) as read with Section 16(1) (a) of POCAMLA. Investigations revealed that both accused persons were ABC MMSP till operators, agents and mobile phone subscribers. They registered several telephone numbers using their ID cards and other ID cards belonging to unsuspecting individuals. The accused persons fraudulently used the above numbers to register MMSP accounts which eventually received money from HYD, MNP Money and International Money Transfer from Country GX.*

Suspect one received a total of KES 13,482,751 through ABC MMSP telephone numbers which he eventually withdrew locally through a till number. Suspect two received a total of KES 18,794,307 through several MMSP accounts. He eventually withdrew cash through the several till numbers. Apart from the till numbers, HGT Bank and BTD Bank accounts were used to transfer money from the above till numbers and eventual withdraws. The accused persons were convicted and fined.

Case example 11*: Investigations were guided by an intelligence report from FRC which led to the arrest of two accused persons who were refugees at BB Camp. They were charged with the offence of Acquisition of Proceeds of Crime Contrary to Section 4(a) as read with Section 16(1) (a) of the POCAMLA. Investigations revealed that both accused persons received money through GHB International money transfer, BGS money transfer and FTR rated money transfer and international Money transfers from South Africa.*

The 1st accused person, through his phone number received a total of KES 1,486,039 from unidentified persons in country WW while the 2nd accused person received KES 487,804 through his phone number. Further investigations revealed that the 2nd accused person, jointly with AX, a suspect still at large, received KES 3,599,000 through KGT Bank account number. The suspects were convicted and fined.

The assessment confirmed the Medium threat level posed by MRPs as reported in the NRA.

IV. Securities sector

Kenya's securities sector is well developed and regulated with sophisticated range of products such as equities, bonds, derivatives, real estate investment trusts (REITs), collective investment schemes, asset-backed securities, and online forex trading. The Capital Markets Authority regulating body charged with the prime responsibility of supervising, licensing and monitoring the activities of market intermediaries, including the stock exchange and the central depository and settlement system and all the other persons licensed under the Capital Markets Act.

The ML threat in the securities sector is rated *Low* but there is a likelihood of the level of threat to increase in the following years. Though the industry is non-cash based and heavily regulated, the very unique nature of the sector and the diversity of its products where market entry can happen within seconds may pose a risk to ML. For future forecast, the assessment observed that with the introduction of innovative technologies for trading, it is possible that the future trend shows a likelihood of increased threats.

The regulator (CMA) has not pursued penalties for violations of POCAMLA Regulations. However, in 2019 the CMA recovered KES 477 million through a no-contest settlement agreement involving Kenol Kobil traders which is indicative of the ability of the regulator to take action against violations.

Given that securities are not a quick win for liquidation, it is therefore not attractive investment for laundered proceeds in Kenya. However, the securities market is foreign driven-in terms of volumes, particularly in pooled layered accounts which presents the challenge on obtaining beneficial ownership information.

The nature of transactions within the securities sector is largely non-cash based and it is not possible to buy securities directly except through a bank/broker. Thus, the market intermediaries would require that you present KYC/CDD information as well as information as to the sources of fund. Besides, the new securities settlement platform that went live in the first quarter of 2019 features functionalities such as same-day trading, settlement services for government securities, and securities lending and borrowing to facilitate short-selling and other investment strategies which may be a threat for ML.

V. VASPs

Kenya conducted a national risk assessment on money laundering and terrorism financing (ML/TF) risks of Virtual Assets (VAs) and Virtual Asset Service Providers (VASPs) in line with the FATF Recommendation 15. Through this assessment, it was noted that 33 VAs are being used by Kenyans. Three of the 33 VAs identified had anonymity-enhanced features. An open-source search indicated that, 33 percent of the total VAs that were used in Kenya, had previously been exploited for ML in other jurisdictions, while 24 percent had been exploited for TF in other jurisdictions due to their inherent attributes. The risk assessment also traced 66 VASPs accessed by Kenyans which offered multiple services. These VASPs fell under four (4) FATF-recognized VASP categories, including virtual asset wallet providers, virtual asset exchanges, virtual asset broking/payment processing, and virtual asset investment providers.

Notably, out of the 66 VASPs, 49 were virtual asset exchanges, 42 were virtual asset wallet providers, 12 were virtual asset investments providers, and 2 offered virtual asset broking services. All the VASPs identified were neither registered nor licensed in the country owing to the lack of a VA/VASP regulatory framework.

Upon assessment of the risks posed by VAs/VASPs, the overall VA/VASPs ML threat for Kenya was rated as *Medium*. This rating was attributed to the inherent nature of the VA/VASPs operating in the country coupled with the absence of an elaborate AML/CFT regulatory framework that applied to their operations. Moreover, the ML threat was exacerbated by the VA-related frauds and Ponzi schemes, and the presence of cyber-attacks connected with Ransomware. The Kenyan ecosystem comprised different types of VAs that were mostly convertible to fiat while some were characterized by anonymity and/or pseudonymity features that could obfuscate financial transactions thus presenting ML/TF risks.

VI. Casinos

Casinos are licensed and regulated by the Betting Control and Licensing Board (BCLB). There are 7 online casinos, 29 land based casinos and 11 that are both online and land based. Casinos are designated as reporting institutions under Section 2 of POCAMLA and are subject to the existing AML/CFT Regulations.

The ML threat in the casinos (including online casinos) is rated as Low, which is a downward review of the NRA rating. The sector is significantly growing across the country, and can be attractive to criminals due to the high cash intensity of transactions, the anonymity and the ability to transact large amounts of money at a rapid scale where proper AML/CFT controls are not in place. Since the NRA, FRC has registered all the casinos, risk-profiled and inspected the high risk casinos. Additionally, the results of inspections were disseminated to help improve the level of compliance through a feedback mechanism. Additionally, FRC has trained both the staff of BCLB and casinos to improve AML/CFT/CPF awareness as well as implementation.

Further, the continued growth of online casinos poses greater threat as it promotes higher anonymity and privacy of the players. Online gambling platforms often operate in multiple jurisdictions, allowing money launderers to transfer money across different countries to further obfuscate funds and avoid detection. It also provides crypto money launderers a platform where they use a combination of anonymous and identifiable accounts to deposit funds, which are then withdrawn or transferred to other players. Another common method for money laundering in online casinos involves the fraudster depositing money into their account through either prepaid cards, cheques, credit and debit cards, or cryptocurrencies. The money deposited to the gambling account is then withdrawn and ultimately achieves legal status.

There has been enhanced AML/CFT supervision of the casino sector through the collaboration between the FRC and BCLB. This includes sensitization and training of the casino sector on their AML/CFT obligations. During the annual licensing, casinos are subjected to a fit and proper test to ensure that criminals and their associates are prevented from operating and owning casinos in the country. The volumes of transactions in the casinos are low thus presenting a Low risk to ML.

VII. Dealers in precious stones and metals

Kenya does not have large deposits of precious metals, but there have been incidences of transit of gold or theft of gold from other jurisdiction passing through our country. By the nature of business in this sector where profit margins are high and largely cash based, it is predicted that the sector may become attractive to money launderers in the future. The sector is currently not under effective supervision nor are there any sector guidelines on AML/CFT.

Between 2019 and 2023, a total of 51 suspected gold scam cases were investigated by the DCI out of which 19 cases were forwarded for prosecution. There are increasing instances where the sector is being abused for ML, which may increase the risk in future. The level of ML threat posed by dealers in precious stones and metals is rated Low.

VIII. Lawyers

The ML threat in the legal profession was assessed as *Medium High*. The role of a law firm in financial crime is of a “professional enabler”. A law firm can go from innocent to complicit in the crime, depending on how the criminals abuse the firm and the procedures that are in place to prevent it. A criminal may abuse the client account, property purchases, litigation, creation and management of companies and trusts, managing client affairs and making introductions to launder their proceeds of crime in the financial system and also acquire assets.

Volumes of transactions are facilitated by lawyers in commercial dealings through preparation of fraudulent or false transaction documents. The high number of corruption cases have been facilitated through such false documents. Also the creation of complex legal structures that can provide anonymity presents ML risks given that these legal structures obscures the identity of the ultimate beneficial owners of illicit proceeds. Many services within the legal profession also rely on the use of non-face-to-face channels which makes it difficult to conduct CDD and KYC measures hence making the level of ML threat in the sector to be high.

Lawyers, notaries and other independent legal practitioners are now designated as reporting institutions under Section 2 of POCAMLA. The Law Society of Kenya is the self-regulatory body charged with supervision of the legal profession for AML/CFT purposes following the amendment to POCAMLA. The FRC also has the mandate to supervise the sector pursuant to S36A (1) of POCAMLA. The Law Society of Kenya and FRC are required to develop a mechanism through which STRs filed by lawyers can be shared with the FRC.

IX. Real estate agency sector

The ML threat in the real estate sector was assessed as High in the 2021 NRA due to the attractiveness on returns in the real estate investments, appreciation in land prices and the increasing demand for housing. The current assessment has however reviewed the rating to Medium. Kenya is an economic hub with most investors both domestic and international being drawn to make investments in the real estate sector. The cash-based nature of some transactions without scrutiny on the source of funds contributed to the rating. Further, foreign investors may find the sector as lucrative and rewarding business as the returns are often high.

However, the structural regime in the country is that the AML/CFT obligations are enforced on real estate agencies, instead of individual agents. This has improved the registration of the reporting entities in the sector. Additionally, clients in the sector are most likely to prefer services offered by agencies, rather than individual agents. FRC has also increased the engagement with the sector through AML/CFT sensitization as well as mobilization for registration.

X. ML risks of legal persons and legal arrangements

An in-depth legal persons and legal arrangements ML risk assessment was conducted to updated the country's understanding of inherent ML/TF threats and vulnerabilities. The ML threats for abuse of legal structures was rated *Medium*. The assessment of vulnerabilities considered the attractiveness of legal structures and arrangements to non-resident incorporation as well as mitigation measures available in the country, and was rated *Medium*. In relation to attractiveness to non-resident incorporation was rated *Medium,* and the assessment considered advertisement for non-residents, tax attractiveness, corruption perception, political stability, beneficial ownership transparency, among other issues.

The mitigation measures on the other hand considered quality of supervision of TCSPs, enforcement and sanctions available, quality of the corporate registry, quality of information obtained through due diligence, exchange of information and quality of controls against opaque structures. The strength of the mitigating measures available was rated *Medium High*.

2.5. Overall National Money Laundering Threat

The current assessment confirms the 2021 NRA's national ML Medium threat rating. The domestic ML threat level remains Medium High with a likelihood of increasing in the future, just as assessed in the NRA. The cross-border ML threat also retained the NRA rating of Medium and is also expected to increase in the future. The threat of ML from foreign predicate offences is rated Medium Low, also retaining the NRA rating. Kenya's overall ML threat is therefore assessed as Medium, as shown in Table 10.

Table 10: Overall National ML Threat Assessment

ML Threat	Domestic	Cross-Border	Foreign Predicate	Overall
2021 NRA Rating	Medium High	Medium	Medium Low	Medium
2023 Update	Medium High	Medium	Medium Low	Medium

3.0. NATIONAL MONEY LAUNDERING VULNERABILITY ASSESSMENT

3.1. Comparison of National Vulnerability Indicators with NRA Assessment

National vulnerability assesses the overall exposure to ML which comes from the national combating ability as well as the vulnerability of the different sectors of the economy. The national ML vulnerability for Kenya was assessed as Medium High (0.64) in the 2021 NRA, but has improved slightly in 2023 to 0.53, which is Medium.

During the period under review Kenya underwent a Mutual Evaluation process that resulted in the country having to implement legal change to address Recommended Actions findings and bolster efforts to combat ML, TF and PF. A number of amendments were introduced through the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Act, 2023 to enhance the AML/CFT measures. Some of the amendments introduced are as follows:

(a) The CBK, CMA and IRA were given express mandate to supervise their licensees for ML/TF. Additionally, the amendments gave the Authorities the power to impose administrative sanctions for ML, TF and PF violations. Further, the amendments introduced the Law Society of Kenya as a Self-regulatory body, with the mandate to regulate, supervise and enforce compliance for AML/CFT/CPF for lawyers, notaries and other legal professionals.

(b) Anti-corruption and Economic Crimes Act (No. 3 of 2003) was amended to allow EACC to investigate ML arising from the proceeds of corruption. The amendment ensures that the EACC does not only follow corruption but also the laundering of generated proceeds.

(c) Additionally, POCAMLA codified coordination with domestic and foreign counterparts for the purpose of information sharing. POCAMLA also mandates supervisory bodies and FRC to use a risk-based approach in monitoring reporting institutions. The codification gives the supervisory bodies statutory basis of calling for or sharing information with other agencies whether within the jurisdiction or outside the jurisdiction.

(d) In relation to investigation strategies, the National Police Service Act introduced controlled delivery as one of the methods that LEAs could use to identify persons involved in the commission of an offence.

(e) The amendments to the Companies Act and the Limited Liability Partnerships Act enhanced the beneficial ownership (BO) framework. The provisions further enhanced the sanctions framework and introduced the requirement to disclose nominee status.

(f) The penalties for the conveyance of monetary instruments into or out of Kenya were enhanced from 10% of the value to 50%. The provision also introduces a prison term of 5 years as an alternative sanction which can also be applied together with the fine.

Kenya has a comprehensive infrastructure of institutions, laws and processes in place to combat money laundering. The comparison in the ratings for the 22 variables is shown in Table 11.

Table 11: Comparison in the Rating of 22 National Vulnerability Variables

Variable	2021 NRA	2023 Update	TREND
Quality of AML Policy and Strategy	0.4	0.7	Improved
Effectiveness of ML Crime Definition	0.8	0.8	No change
Comprehensiveness of Asset Forfeiture Laws	0.7	0.7	No change
Quality of FIU Intelligence Gathering and Processing	0.6	0.7	Improved
Capacity and Resources for Financial Crime Investigations (incl. AF)	0.6	0.6	No change
Integrity and Independence of Financial Crime Investigators (incl. AF)	0.7	0.7	No change
Capacity and Resources for Financial Crime Prosecutions (incl. AF)	0.6	0.6	No change
Integrity and Independence of Financial Crime Prosecutors (incl. AF)	0.7	0.7	No change
Capacity and Resources for Judicial Processes (incl. AF)	0.6	0.6	No change
Integrity and Independence of Judges (incl. AF)	0.7	0.7	No change
Quality of Border Controls	0.6	0.6	No change
Comprehensiveness of Customs Regime on Cash and Similar Instruments	0.8	0.8	No change
Effectiveness of Customs Controls on Cash and Similar Instruments	0.6	0.6	No change
Effectiveness of Domestic Cooperation	0.7	0.8	Improved
Effectiveness of International Cooperation	0.6	0.7	Improved
Formalization Level of Economy	0.5	0.5	No change
Level of Financial Integrity	0.7	0.7	No change

Effectiveness of Tax Enforcement	0.7	0.7	No change
Availability of Independent Audit	0.7	0.7	No change
Availability of Reliable Identification Infrastructure	0.7	0.7	No change
Availability of Independent Information Sources	0.6	0.6	No change
Availability and Access to Beneficial Ownership Information	0.4	0.6	Improved

As shown in Table 11, the national ML vulnerability reduced, while the combating ability of the country improved. These positive changes can be attributed to implementation of the 2021-2026 National AML/CFT/CPF Strategy as well as the implementation of the Recommended Actions contained in the MER for Kenya.

3.2. Analysis of the 22 National Vulnerability Variables

3.2.1. Quality of AML Policy and Strategy

Kenya is committed to countering ML/TF through the establishment and implementation of a robust and effective anti-money laundering regime in accordance with international AML/CFT standards and practice. In 2023, the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Act, was enacted to ensure Kenyan laws are in line with international standards.

Through the reconstituted National Taskforce on Anti-Money Laundering, Counter-Financing of Terrorism and the Financing of Proliferation of Weapons of Mass Destruction (NTF), the Government is able to have a coordinated approach to tackling ML/TF. The reconstitution of the NTF, refining the membership and terms of reference was informed by the recommendations of the 2021 National Risk Assessment. One of the mandates of the NTF is the implementation of the National Strategy on AML/CFT/CPF and Action Plan. The strategy and action plan is based on the NRA (2022) outcomes and its main purpose is to guide implementation of these outcome.

The 2021 NRA findings were disseminated and shared widely throughout government and with the private sector. A copy of the report is posted on the FRC website and It was also circulated to government agencies and supervisory bodies for circulation to its licensees.

The NRA and Action plan are updated regularly and as circumstances warrant. Kenya undertook an ML/TF NRA that was published in 2022. Further in 2023, the country undertook risk assessments for Terrorism Financing (TF), Virtual Assets and Virtual Assets Service Providers, legal persons and legal arrangements and Non-Profit Organizations (NPOs).

All reporting institutions are required to conduct an ML/TF risk assessment to enable them to identify, assess, understand, monitor, manage, and mitigate the risks associated with ML/TF/PF. Financial institutions have largely submitted their institutional risk assessment reports for the year 2022, which are under review by their respective supervisory bodies. However, DNFBP sectors is currently undergoing capacity building to enable the conduct of sectoral and institutional risk assessments.

Based on the foregoing, the Quality of AML Policy and Strategy was reviewed from the 2021 NRA rating of Medium Low to High.

3.2.2. Effectiveness of ML Crime Definition

The offence of money laundering is criminalized under Sections 3, 4 and 7 of POCAMLA, in line with the Vienna and Palermo Conventions and covers the following elements:

(a) act of engaging or entering into agreement or any other act, Section 3 (a) and (b).

(b) act of concealing or disguising the nature, source, location, disposition or movement of the property or its ownership, Section 3 (b) (i).

(c) act of acquiring, possessing or using such property that is from proceeds of crime, Sec. 4.

(d) act of enabling or assisting, Section 3 (b) (ii).

(e) act of transporting, transmitting, transferring or receiving or attempting to transport, transmit, transfer or receive a monetary instrument or anything of value, Section 7.

The ML offences under the POCAMLA extend to any type of property that is or forms part of the proceeds of crimes regardless of the value and whether the offence was committed in Kenya or elsewhere. Thus, the provision covers nearly every type of asset whether within the jurisdiction of Kenya or elsewhere. When proving that property is the proceeds of crime it is not necessary or required that a person be convicted of a predicate offence.

Kenya has adopted an all crimes approach in defining an offence. Section 2 defines “Offence” as an offence against a provision of any law in Kenya, or an offence against a provision of any law in a foreign state for conduct which, if it occurred in Kenya, would constitute an offence against a provision of any law in Kenya. The predicate crimes for money laundering therefore extends to offences charged under other laws like the Penal Code, POTA and covers the designated offences itemized in the FATF Recommendations.

The ML offences under POCAMLA do not distinguish between the person committing the predicate offence and the person who later launders the proceeds from the offence thus provide for self-laundering. While ancillary offences to the offence are not fully covered under POCAMLA, these are provided for in the penal code.

The ML offences and penalties for non-compliance applies to both natural and legal persons. Wide and proportionate monetary and custodial penalties are provided for under Section 16 of POCAMLA and are relatively in line with the range of sentences provided for in other countries. The Judiciary has put in place the sentencing guidelines which are aimed at guiding judicial officers in the application and interpretation of laws that govern sentencing in Kenya.

Effectiveness of Money Laundering (ML) Crime Definition was rated as Very High.

3.2.3. Comprehensiveness of Asset Forfeiture Laws

As indicate in Kenya's 2021 NRA, LEAs have been provided with a legal basis to identify and trace the proceeds or property. These include carrying out rapid provisional measures, such as seizing or freezing, to prevent the transfer or disposal of the proceeds. The framework covers broader scope including proceeds, instrumentalities, profits, and property of corresponding value in order to provide a sound regime for the law enforcement authorities. Further, the legal framework provides relief or bona fide third parties and such parties are safeguarded as well. Statistics on recoveries is provide in Tables 12 and 13.

Table 12: Summary of Recoveries by ARA for 2022-2023

Nature of Confiscation	Cases	Value (KES)	Other Assets
Preservation	28	226,469,171	22 motor vehicles 5 motor cycles 4 parcels of land 2 properties
Forfeitures	18	525,443,165	12 motor vehicles 3 properties 1 land parcel
Judgements	11	3,246,146,115	13 Motor vehicles

Table 13: Summary of Recoveries by ARA for 2022-2023

S/No.	Action	July 2022-June 2023		July 2023 –to Oct 2023	
		No. of Cases	Value in KES.	No. of Cases	Value in KES.
1.	Illegally acquire and unexplained assets cases completed	40	6.63 billion	4	1.963 billion
2.	Applications for preservation of Assets	23	886 million	5	1.212 billion
3.	Recovery suits filed	62	8.73 billion	2	1.111 billion
4.	Recovered assets	107	3.8 billion	5	1.319 billion

Comprehensiveness of Kenya's asset recovery regime is rated as High, similar to NRA rating.

3.2.4. Quality of FIU Intelligence Gathering and Processing

FRC has signed MOUs for sharing and receiving information with several domestic agencies including the Kenya Revenue Authority, Directorate of Immigration Services, Lands Registry, and law enforcement agencies to access information on criminal records. Additionally, FRC uses robust IT systems such as goAML to receive and analyze STR/SAR/CTR and other sources of information. Further, the FIU incorporates open-source information in its analysis.

The FRC is awaiting formal admission into the Egmont Group by July 2024. Further, pursuant to Sec. 23(l) of POCAMLA, the FRC has entered into MOUs with FIUs of Seychelles, Tanzania, Uganda, Malawi, Lesotho, South Africa, Namibia, Angola, Ethiopia, Zambia, Zimbabwe, and Madagascar, to exchange information through secure channels and to enable the Centre to discharge its mandate.

FRC has access to various data sources to enable it add value to information received. It has access to Integrated Population Registration System (IPRS) through which it can verify any identity card online. FRC has signed MOUs for sharing and receiving information with several agencies including: Kenya Revenue Authority, Registrar of Companies, Immigration database, Lands Registry, and Criminal records. The FRC also has a working arrangement with the

National Transport and Safety Authority. Pursuant to Section 24(e) POCAMLA, the FRC may instruct any reporting institution to provide such other or additional information or documents to enable FRC to properly undertake its functions under POCAMLA.

Between 2016 and 2020, the FRC received 20,087 STRs out of which only one was reported by a non- financial institution (player in real estate sector). Failure of sectors other than financial institutions to file STRs is attributable to several factors that may include lack of awareness. Between 2021 and 2023, the FRC received 13,699 STRs, majorly from the financial sector. However, lack of disseminations from CTRs and low DNFBPs reporting are some of the key weaknesses.

Based on the forgoing, the Quality of FIU Intelligence Gathering and Processing was rated High.

3.2.5. Capacity and Resources for Financial Crime Investigations (including AF)

All agencies mandated to carry out ML investigations (reported in the NRA) have well trained and skilled investigators. For instance, the DCI has trained 33 officers in financial investigation /analysis and Certified Fraud Examiner courses both locally and internationally. EACC has 22 staff members comprising of investigators, accountants, valuers, engineers and procurement experts. It has a program to continuously train investigators, majority of whom are trained on ML and asset recovery. ARA's five investigators possess skills in ML investigations, asset tracing, financial investigations and financial analysis. KRA on the other hand has 138 investigators trained in tax matters. It was noted that investigators from KWS, KFS and ACA do not have ML training or exposure. Moreover, ARA, EACC and KWS were underfunded during the period under review while in terms of human resources, ARA was operating with less than 50% of its staff requirement.

Investigations are normally based on various sources, including intelligence reports, whistle blower reports, STRs from FRC amongst others sources. Investigative agencies have a broad range of investigative powers, including special investigative techniques. Specialized covert operations are provided for under Evidence Act, Criminal Procedure Code and POCAMLA. In addition, they have sufficient powers to compel persons to produce records, perform searches or take witness statements. Additionally, controlled delivery has been introduced as one of the methods that LEAs can use to identify persons involved in the commission of an offence.

Kenya has prioritized the identification and investigation of ML activities as per the national AML/CFT Strategy, which provides parallel financial ML and TF investigations to help in the prioritization of investigations of ML/TF. The country has also developed a parallel investigations Toolkit to help in the prioritization of investigations and prosecution of ML/TF cases. Consequently, between 2021 and 2023, the DCI, and EACC completed and forwarded a total of 34 files on ML-related offences to ODPP for prosecution, as highlighted in Table 11.

Kenya has further deployed an automated and centralized case management system, used by the central authority and the different competent authorities to categorize, record and transmit the requests. The web-based ML/TF case management system is equipped with workflow capabilities and alert functionalities. This system facilitates the categorization and prioritization of cases and MLAs (Mutual Legal Assistance) requests. The system enables tracking of cases end-to-end across various organizations.

The variable, Capacity and Resources for Financial Crime Investigations (including Asset Forfeiture) was therefore assessed as Medium High, retaining the NRA rating.

3.2.6. Integrity and Independence of Financial Crime Investigators (including AF)

The Constitution of Kenya provides elaborate measures to ensure that investigative agencies conduct their work without fear and fair against the background of possible interference and corruption. Kenya has identified corruption as a major challenge and has developed an action plan to address it. The 2021 National Ethics and Corruption survey indicated that the National Police Service (82.1%) ranked first among Government departments and agencies where one was most likely to encounter corruption and unethical practices. However, this Report did not assess the police departments that gave rise to the high ranking and thus it was not possible to assess the corruption levels pertaining to financial crime investigators.

The Independent Policing Oversight Authority (IPOA) was created in 2011 to provide for civilian oversight over the work of the police in Kenya. In 2018, IPOA processed 2,339 complaints against police misconduct, which was a slight increase on the 2,267 cases reported in 2017. Majority of the complaints reported relate to police in-action (i.e., failure by police to take action) 32%, police misconduct, 15.1%, police assault, 12.1% and police harassment, 9%. However, the general public perception is that activities of investigative agencies have been interfered with or influenced by politics, corruption as well as social pressure. A few cases of perceived abuse of power by the police have been reported in the media.

Accordingly, the Integrity and Independence of Financial Crime Investigators (including Asset Forfeiture) was assessed as High, retaining the 2021 rating.

3.2.7. Capacity and Resources for Financial Crime Prosecutions (including AF)

This variable assesses whether a country has adequate capacity and resources to effectively prosecute ML offenses, associated predicate offenses, proceeds of foreign predicate offenses and conduct asset forfeiture actions. In Kenya, criminal prosecutions are undertaken by the ODPP while asset forfeiture is conducted by several agencies including ARA, EACC and KRA.

The ODPP is mandated to institute and undertake prosecution of criminal matters and all other aspects incidental thereto by Article 157 of the Constitution. Among the tools to aid in the conduct of work include Deferred Prosecution Agreements Guidelines, ODPP Corruption and Economic Crimes Prosecution Guidelines, ODPP Plea Bargaining Guidelines, consultants, special prosecutors, prosecution-guided investigations amongst others.

During NRA, the ODPP received 23 ML cases for prosecution. All were approved for prosecution, but there were no convictions. Between 2021 and 2023, the Director of Public Prosecution (DPP) received and dealt with several ML cases as reported in Table 14.

Table 14: ML Files Forwarded to DPP for Prosecution from 2022-2023

S/No	Particulars	No. of Files 2021/2022		No. of Files 2022/2023	
		DCI	EACC	DCI	EACC
1.	Total No. of files forwarded to the DPP	8	1	20	5
2.	Files where DPP directed prosecution to ensue	3	1	14	0
3.	Files where DPP directed further investigations	2	0	5	2
4.	Files pending further review	1	0	1	3
5.	Convictions	0	0	1	0

The number of ML cases prosecuted as well as the number of convictions are relatively few, owing to capacity constraints and few number of ML investigations. Proactive measures like risk-based prioritization of cases, prosecution guided parallel financial investigations and sensitization of both investigators, prosecutors and judicial officers on ML typologies have been enhanced.

From 2021, the ODPP prioritized training of its officers on detecting, identifying, prosecuting and adjudicating the different types of ML, and 12 prosecutors have benefited. Further, in efforts to effectively adjudicate ML cases, ODPP established a dedicated department with specialized prosecutors, namely, Economic, International and Organized Crime Department, headed by a Deputy Director of Public Prosecutions, with specialized AML and AF Division; Banking and Financial Crimes Division; the International, Transnational and Organized Crimes Division; the Counter Terrorism Division; and the Anti-corruption and Economic Crimes Division. The AML & AF Division has 55 prosecutors that are trained in ML and have undergone specialized trainings over the years.

The Capacity and Resources for Financial Crime Prosecutions (including AF) was therefore, assessed as Medium High.

3.2.8. Integrity and Independence of Financial Crime Prosecutors (including AF)

ODPP has launched the Uadilifu Case Management system that has capabilities of tracking and monitoring the status and progress of files and further, facilitate electronic filing of pleadings and disclosure of evidentiary material. This Case Management System has enhanced efficient and expeditious disposal of criminal cases.

ODPP has also established the Integrity and Quality Assurance Department which ensures that decisions are made in compliance with the code of ethics. In additional, the ODPP has an Internal Affairs Unit that handles all complaints related to misconduct and has a process in place where prosecutors are constantly reviewing files to ensure all areas are covered in each case being prosecuted. The pace or outcome of ML prosecutions/AF is affected by factors such as the complexity of cases which provides a challenge in presentation of the evidence in Court, mutual legal assistance technicalities and lack of adequate financial investigators and forensic experts, among others.

In undertaking AF proceedings, ARA has internal standard operating procedures on how to conduct ML investigations and asset recovery procedures. AF proceedings involving high-profile cases are conducted in teams comprising lawyers, investigators and financial analysts to ensure professionalism and objectivity. The process of managing frozen and seized assets is supervised by the Courts and this guarantees integrity in the process.

EACC has a structure in place to ensure that files proceeding to prosecution are not subjected to interference. This includes the fact that decision to charge is reached by a team of EACC officials. The independence of the EACC and taking note that civil proceedings are undertaken by the Commission without involving any other body. Where Alternative Dispute Resolution (ADR) is adopted, the ADR policy guides such proceedings. Section 20 EACC Act offer EACC officers protection from personal liability.

The Integrity and Independence of Financial Crime Prosecutors (including Asset Forfeiture) is assessed as High (0.7).

3.2.9. Capacity and Resources for Judicial Processes (including AF)

The Judiciary of Kenya interprets and applies the law in Kenya. The Judiciary consists of the Supreme Court, Court of Appeals, High Court, Employment and Labour Relations Court, Environment and Land Court, the Magistrate Court, Kadhi Court.

Judges and magistrates have to meet certain qualifications, skills and experience. Over time they build on their experience as they adjudicate cases. They also have legal knowledge to enable them preside over ML/AF cases. There is no requirement imposed on judicial officers handling ML and AF to have any other training or qualifications. Nonetheless, the State of the Judiciary and the Administration of Justice Report indicated that in 2021, the Judiciary conducted virtual training of judiciary officers on ML and asset recovery and in 2022, trained 72 judiciary officers on the same.

The Capacity and Resources for Judicial Processes (including AF) was assessed as Medium High, retaining the NRA rating.

3.2.10. Integrity and Independence of Judges (including AF)

Kenya is a signatory to the United Nations Basic Principles on the Independence of the Judiciary that sets basic principles, formulated to assist countries in their task of securing and promoting the independence of the judiciary.

The Judicial Service Commission (JSC) is an independent Commission established under Article 171 of the Constitution. Its mandate as stipulated in Article 172 of the Constitution is to promote and facilitate the independence and accountability of the Judiciary and the efficient, effective and transparent administration of justice. The Judges enjoy a security of tenure with a retirement age of seventy (70) years, but a judge may elect to retire at any time after attaining the age of sixty-five years.

Several corruption allegations have been made concerning the Judiciary including corruption in the court registry that effects integrity of court records. Despite the allegations, high profile prosecutions are determined with professionalism including requiring pre-trial hearings. Courts hold public hearings which have the effect of increasing transparency and accountability of decisions and there are measures in place to preserve the independence and integrity of the Judiciary.

The Integrity and Independence of Judges (including AF) was thus assessed as High, (retaining the 2021 rating.

3.2.11. Quality of Border Controls

The NRA assessed the Quality of Border Controls as Medium High in 2021, which has been retained.

3.2.12. Comprehensiveness of Customs Regime on Cash and Similar Instruments

Legal and regulatory provisions which relate to declaration/disclosures of cash, bearer negotiable instruments and precious stones/metals when crossing Kenya borders are as follows:

(a) Section 12(3) of POCAMLA 2009 – makes it an offence to fail to or to submit a false monetary instrument.

(b) Section16(3) of POCAMLA creates fine not exceeding ten per cent of the amount of the monetary instruments involved for offences relating to monetary declarations.

(c) Section 12(4) POCAMLA 2009 – grants authorized officer to temporarily seize monetary instruments suspected to be tainted property.

The laws providing for detection of precious stones are:—

(a) Section 171(1) of the Mining Act – a person shall not export a mineral otherwise than in accordance with an export permit granted by the respective Cabinet Secretary.
(b) Section 171(3) of the Mining Act - the grant of an export permit to a person in accordance with this Act shall not exempt the person from an obligation to comply with the requirements of any other law relating to the export of minerals.
(c) Section 172 of the Mining Act - where a person imports minerals, the person of shall make a declaration at the point of entry in the minerals.
(d) Section 14 of Trading unwrought precious metals Act - no person shall export unwrought precious metal, whether by land, sea or air, unless he holds a certificate.

The Customs Regime on Cash and Similar Instruments in Kenya was considered very comprehensive, thus retaining the NRA rating of Very High.

3.2.13. Effectiveness of Customs Controls on Cash and Similar Instruments

The NRA assessed the Quality of Border Controls as Medium High in 2021, which has been retained in 2023.

3.2.14. Effectiveness of Domestic Cooperation

The effectiveness of domestic cooperation amongst LEAs has been rated Very High, which is an improvement of the High rating in the 2021 NRA. This was attributed to existence of several mechanisms to promote interagency cooperation, which include the National Taskforce on AML/CFT (NTF), the AML Advisory Board (AMLAB), the Multi-Agency Team (MAT), among others. Kenya has developed and implemented the National Anti-Money Laundering, Counter Financing of Terrorism and Counter Proliferation Financing Coordination Framework to improve coordination between LEAs and competent authorities, among others.

3.2.15. Effectiveness of International Cooperation

The effectiveness of international cooperation among LEAs has been rated High. During the review period, the Authorities have promoted the use of formal and informal cooperation through bilateral agreements and executing MOUs, utilizing international networks, associations and using other informal channels, for example emails, phone calls.

Kenya has an automated and centralized case management system in place, used by the Central Authority and the different competent authorities to categorize, record and transmit the requests.

The web-based ML/FT case management system is equipped with workflow capabilities and alert functionalities. This system facilitates the categorization and prioritization of cases and MLAs (Mutual Legal Assistance) requests. The system enables tracking of cases end to end across various organizations.

In the review period, Kenya received and successfully processed MLA requests as shown in the Table 15.

Table 15: Incoming and Outgoing MLA Requests

Period	No. of Incoming Requests	No. of Requests Processed	No. of Requests Acceded	No. of Requests Rejected	No. of Requests Completed	No. of Ongoing Requests
2022	11	11	10	1	1	9
2023	23	23	21	2	4	17
Period	No. of Requests Sent	No. of Requests Sent and Processed	No. of Requests Acceded	No. of Requests Sent and Rejected	No. of Complete Requests	No. of Ongoing Requests
2022	6	6	2	0	2	2
2023	11	11	2	0	2	9

3.2.16. Formalization Level of Economy

Kenya is predominantly cash-based economy despite the availability and accessibility of alternative financial services, including mobile money. The assessment noted that the number of cash intensive transactions in particular filling (fuel) stations has been periodically spiking, and recommended that FRC in consultation with the Energy and Petroleum Regulatory Authority (EPRA), the State Department of Petroleum and KRA should undertake a detailed study on this sector to establish whether there are money laundering risks inherent in filling stations business and recommend the appropriate policy and regulatory interventions. The National Treasury and Economic Planning is also encouraged to develop comprehensive policies to incentivise the formalisation of the economy.

Level of formalization of economy was rated Medium, similar to the NRA rating.

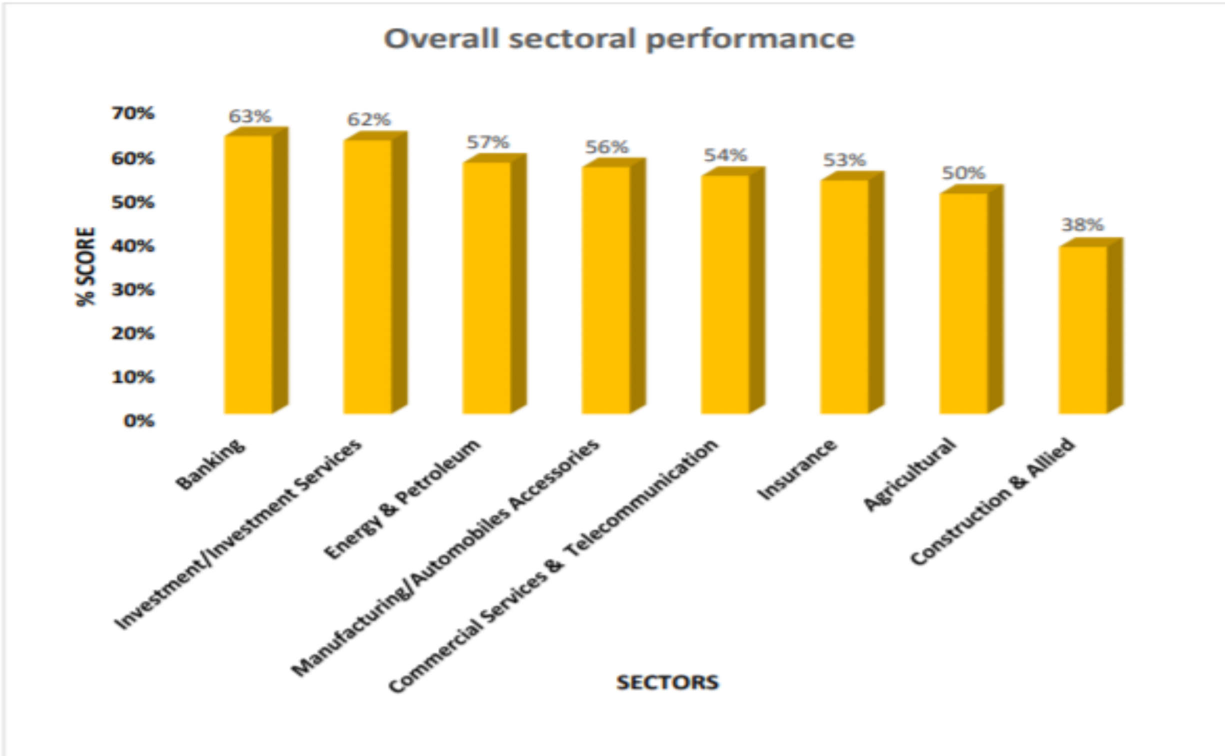
3.2.17. Level of Financial Integrity

The level of financial integrity focuses on the quality of business and professional ethics and transparency of a country's tax system. Kenya's tax regime is based on self-assessment whereby the taxpayer makes a declaration and pays without any intervention from the taxman. Sections 28 and 52 of Tax Procedures Act, provide for returns by persons chargeable to tax.

The level of financial integrity is impacted by, among others, the ethics and professional standards. A report on the State of Corporate Governance of Issuers of Securities to the public in Kenya issued in 2018 showed that sectors performed fairly in commitment to good governance as shown in Figure 2, save for construction and allied sector which scored a 'needs improvement'.

A number of sectors have business code of conduct. However, level of business ethics and commitment to good corporate governance and tax compliance by businesses and professions still require some improvements. Professionals have been involved in collapse of several entities. Kenya's retail sector has seen a collapse of giant business due to mismanagement and poor corporate governance. In additional, several financial crimes such as corruption, fraud, tax evasion continue to pose challenges to LEAs. To improve level of financial integrity, it is proposed that professional bodies should promote programs aimed at enforcing professional ethics within their respective bodies.

Figure 1: Commitment of Sectors to Good Governance



Based on the foregoing, the Level of Financial Integrity was assessed as High.

3.2.18. Effectiveness of Tax Enforcement

The Kenya Revenue Authority is charged with the responsibility of assessing, collecting and accounting for all revenue on behalf of the Government of Kenya. The Commissioner is empowered to access taxpayers' premises, books, records, and other tax information under Sections 58, 59 and 60 of the Tax Procedures Act, 2015. Taxpayers are required by law to maintain books and records under the following sections 54A and 55 of Income Tax Act, Section 43(1) VAT Act 2013, revised in 2019, Section 23 of the Tax Procedures Act 2015 and Section 34 of the Excise Duty Act 2015.

There are Regional Audit Centres (RACs) under each region with Nairobi having six RACs, the mandate of RACs is to conduct risk-based audits. The RACs are also supported by Policy and Technical Advisory (P&TA) division on technical matters, sector coordination and quality assurance.

KRA is still in the process of increasing/expanding the tax bracket (i.e., number of persons required to pay taxes), for instance, taxing the digital economy. The number of individuals who are filling tax returns are relatively low compared to parameters such as the number of persons casting votes during general elections or the number of persons holding bank accounts. For instance, approximately 5.5 and 6.3 million taxpayers filed tax returns in 2021 and 2022 respectively, while reported number of the adult population holding bank account in 2023 is about 12 million. On the other hand, 14 million Kenyans were reported to have voted in the 2022 general elections. It is recommended that KRA should implement more initiatives towards expanding the tax base.

Based on the foregoing, the Effectiveness of Tax Enforcement was assessed as High.

3.2.19. Availability of Independent Audit

The current assessment considered and retained the NRA rating of High for this variable.

3.2.20. Availability of Reliable Identification Infrastructure

The current assessment considered and retained the NRA rating of High for the Identity Infrastructure. Although there is a reliable identification infrastructure, there has been reported cases of fraudulent acquisition of national identification documents by criminals and criminal networks. When fraud is identified, such documents are withdrawn and the criminals repatriated to their countries.

3.2.21. Availability of Independent Information Sources

The current assessment considered and retained the NRA rating of Medium High for this variable.

3.2.22. Availability and Access to Beneficial Ownership Information

Kenya has established a Beneficial Ownership (BO) register through Section 93A of the Companies Act, 2015. The provision requires that companies keep and file a copy of the register of beneficial ownership information with the Registrar. The provision was given effect by the Companies (Beneficial Ownership Information) Regulations, 2020. The register was operationalized in October 2020. Since operationalization of the register, 44.67% of the companies had complied by October 2023. The information is available to competent authorities. KRA, CBK, EACC, IRA and ARA have utilized the information for either licensing or investigation purposes. So far, information in relation to 29 companies was requested for in 2022 while in 2023, information in relation to 300 companies was requested for by October. Additionally, a number of law enforcement agencies and supervisors of financial institutions and DNFBPs have access to information through API or read-only access which allows them to cross check information instantaneously.

Section 93A has since been amended to enhance the sanction system for failure to comply with beneficial ownership information. Additionally, the Regulations were also amended in 2023 to expand access to beneficial ownership information to reporting institutions.

The BO information requirements have been extended to limited liability partnerships (LLPs). The LLPs Act, 2011 was amended in 2023 to require LLPs to keep and file BO information with the Registrar. Additionally, Kenya has introduced the LLPs (Beneficial Ownership Information) Regulations, 2023 which provides for access to the information by competent authorities and reporting institutions.

POCAMLA requires reporting institutions to conduct due diligence. Where a legal structure is involved, they are required to obtain BO information. Proceeds of Crime and Anti-Money Laundering Regulations, 2023, Regulation 18 (2) requires financial institutions to collect information on the settlor, beneficiaries, trustees and any person exercising ultimate effective control.

Trusts are still not required to keep and file their information with the registering authority. Providing for this requirement will expand the avenues of verification of BO information by financial institutions.

Based on the amendments to the BO laws, the variable Availability and Access to BO Information has been reviewed from the Medium Low rating in NRA to Medium High.