



Anti-money laundering and counter-terrorist financing measures

Ghana

5th Enhanced Follow-up Report & Technical Compliance Re-Rating

Follow-up Report



MAY 2022



The Inter-Governmental Action Group against Money Laundering (GIABA) is a specialized institution of ECOWAS and a FATF Style Regional Body that promotes policies to protect member States financial system against money laundering, terrorist financing and the financing of the proliferation of weapons of mass destruction. The FATF Recommendations are recognised as the global anti-money laundering (AML) and counter terrorist financing (CTF) standard.

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I. INTRODUCTION

1. The Mutual Evaluation Report (MER) of Ghana was adopted in May 2017. Ghana was placed on the enhanced follow-up process. Ghana was rated NC/PC on 8 Recommendations. Ghana was also rated as having a low and moderate level of effectiveness on 10 Immediate Outcomes as indicated in the table below. Ghana requested for re-ratings in May 2018. Ghana was re-rated from PC to LC on Recommendations 16 and 17. Ghana also requested for re-ratings¹ in May 2019². The Plenary acknowledged the progress Ghana had made to improve compliance on these recommendations, however it observed that these measures were not sufficient to justify re-ratings. In line with the GIABA Process and Procedures, the Plenary considered new requirements where the FATF Recommendations have changed since the adoption of its 1st FUR namely; Recommendations 2,15,18 and 21. Recommendation 2 remained LC, R 15, was re-rated from C to PC, R18 remained LC and R 21 was re-rated from C to LC. As such 7 Recommendations are now rated NC/PC.

2. This 5th enhanced FUR analyses Ghana's progress in addressing the technical compliance deficiencies identified in its MER relating to Recommendations 8, 33 and 35. Technical compliance re-ratings are given where sufficient progress has been demonstrated. No Recommendations have changed since the adoption of its 4th enhanced FUR in May 2021. This report does not address what progress Ghana has made to improve its effectiveness.

II. FINDINGS OF THE MUTUAL EVALUATION REPORT AND 4TH ENHANCED FOLLOW UP REPORT

3. Ghana's MER and 4th enhanced FUR rated Ghana's technical compliance as follows:

Table 1. Technical compliance ratings, May 2021³

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	LC	C	LC	LC	LC	LC	NC	C	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
C	C	C	C	PC	LC	LC	LC	C	C
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
LC	LC	LC	LC	PC	LC	LC	PC	C	C
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
C	LC	PC	LC	PC	C	LC	LC	PC	LC

Note: There are four possible levels of technical compliance: Compliant (C), Largely Compliant (LC), Partially Compliant (PC), and Non-Compliant (NC).

4. The assessment of Ghana's request for technical compliance re-ratings and the preparation of this report was undertaken by the following expert (supported by the GIABA Secretariat: Dr Buno Nduka and Giwa Sechap):

- Franklin Campbell, Financial Intelligence Unit, Sierra Leone

¹ Ghana requested for re-ratings on Recommendations 16 ,18 and 32

² This follow-up report was discussed at the intersessional plenary in April 2021

³ Source: Ghana's MER and 4th Enhanced Follow-up Report & Technical Compliance without Re-Rating, May 2021

- Pius Agboola, National Insurance Commission, Nigeria

5. Section III of this report highlights progress made by Ghana and analysis undertaken by the Reviewers. Section IV sets out the conclusion and a table showing which Recommendations have been recommended for re-rating.

III. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

6. This section summarises Ghana’s progress to improve its technical compliance by:
- a) Addressing some of the technical compliance deficiencies identified in the MER, and for which the authorities requested re-rating (R. 8, 33 and 35), and
 - b) Implementing new requirements where the FATF Recommendations have changed since Ghana’s 4th enhanced follow up report (None).

3.1. Progress to address technical compliance deficiencies identified in the MER

7. Ghana has made progress to address technical compliance deficiencies identified in the MER in relation to R.8 rated NC, and R.33 and R.35, rated PC. As a result of this progress, Ghana has been re-rated on these Recommendations.

Recommendation 8 (Originally rated NC)

8. In its 2nd round MER, Ghana was rated NC with R.8, based on the following deficiencies: lack of review of the adequacy of measures including laws and regulations that have been put in place in the sector, lack of identification of the types of NPOs which are likely to be at risk of FT abuse and related threats; and limited outreach to the NPO sector. In addition, there was no clear policies to promote transparency, integrity and public confidence in administration and management of NPOs; no obligation for NPOs to maintain information on the purpose and objectives of their stated activities or on person(s) who own, control or direct their activities; no obligation for NPOs to have controls in place to ensure that all funds are fully accounted for, and are spent in a manner that is consistent with the purpose and objectives of the NPO’s stated activities; and no requirements to follow a “know your beneficiaries and associated NPOs” rule. Furthermore, there was no requirement that competent authorities should monitor and supervise NPOs for compliance; no domestic cooperation, coordination and information-sharing among authorities or organisations that hold relevant information on NPOs; and no points of contacts and procedures to respond to international requests for information regarding particular NPOs suspected of TF. In October 2016, revision was made to R.8 to align the methodology for R.8 with the revised Recommendation 8 and Interpretive Note to R. 8. Consequently, some new requirements were added to R.8 to which Ghana is expected to also address.

9. In April 2019, Ghana completed a risk assessment of the NPO sector. The assessment highlighted existing legal frameworks for NPOs; registration process; types, operational areas and geographical locations of NPOs; and financing of NPOs. In addition, it covers assessment of TF threats of the NPO sector and rated the TF threat of the sector as medium. Overall, the risk assessment process and methodology appear reasonable. However, the risk assessment report : (i) lacks depth /details to constitute a significant guidance for the NPO sector to protect themselves from potential TF risks, (ii) did not identify the subset of NPOs at risk (i.e a subset

of organizations that, based on their activities or characteristics, are likely to be at risk of TF abuse); and (iii) did not specifically identify the nature of threats posed by terrorist entities to the NPOs which are at risk as well as how terrorist actors abuse those NPOs, which would have constituted the first step in the application of risk-based supervision. Nonetheless, as part of its ICRG process, Ghana undertook further steps after the NPO Risk Assessment to identify NPOs operating in the vocational skills and those with a religious advocacy goal (faith based NPOs) as the sub-category of NPOs falling under the FATF definition.

10. Ghana carried out a review of the adequacy of regulations within the NPO sector which led to the issuance of a National NPOs Policy, and Directives for the Management of NPOs Operations in Ghana in 2020. However, the Policy and Directives issued apply to all NPOs and not necessarily to those which fall under the subset of NPOs that may be abused for TF. Similarly, the amendment to the AML Act in 2020 did not address any specific issue relating to NPOs. Ghana issued a *Guidance Note on TF Redflags / Indicators for NPOs*. However, the Guidance is limited in scope as it only focuses on the identification and reporting of TF related STRs

11. Some Workshops and sensitization programmes were undertaken by the NPOS and FIC between April 2019 and January 2021 aimed at raising awareness of NPOs on AML/CFT compliance; communicating information on the risk assessment of the NPOs conducted in 2019, and the roles of NPOs in the Guidelines (the National NPOs Policy, and Directives for the Management of NPOs Operations) issued in 2020.. The outreach programmes led to the establishment of the NPO Forum. However, it is unclear the extent to which the outreach programmes focused on higher-risk entities (as these were general nation-wide sensitization and capacity building programmes) and supported development and refinement of formal best practice.

12. The NPO Secretariat is not monitoring the compliance of NPOs with the requirements of R.8. Article 17 (2) of the Directives empowers the NPO Secretariat to impose sanctions on NPOs for various violations including failure to submit an annual audited financial statement; and provision of misleading or false information. The sanctions include revocation of license; suspension of license; blacklisting of erring NPOs; fines and criminal prosecution. The Companies Act also provided for sanctions for natural and legal persons that violates the requirements of the Act, including failure to provide information on beneficial owner. In general, existing frameworks do appear to enable effective, proportionate and dissuasive sanctions to be imposed.

13. The NPO Secretariat made 2 requests for information to the FIU and sent 175 data of applicants of NPOs to the Police for verification. Beyond these, the authorities could not demonstrate that the other competent authorities have put in place mechanisms enabling prompt sharing of such information and what these mechanisms are. In general, Ghana did not indicate how the provision of Article 3(7) is used to ensure effective co-operation, co-ordination and information-sharing among all levels of appropriate authorities or organisations that hold relevant information on NPOs, e.g. how frequent the appropriate authorities meet to exchange information and take other actions. Additionally, in practice, it is not clear if the NPOs Secretariat hold all of the requisite information as it was recently established and there is no evidence of supervision and sanctioning over the filing of required information. Furthermore, the provision of Article 3 (7) of the Directives appears limited to LEAs.

14. Ghana established a specialized unit within the National Intelligence Bureau has responsibility for investigating all TF related cases, including those relating to NPOs. The Ghanaian authorities provided some TF cases relating to NPOs that have been investigated by the Unit (2 NPOs suspected of being exploited by terrorist and/or terrorist organisations were investigated between 2019 -2021, while one NPO suspected TF abuse is currently being investigated).

15. Accountable institutions in Ghana are required to report suspicious transactions to the Financial Intelligence Centre (FIC), including when there is suspicion or reasonable grounds to suspect that a particular NPO is involved in any of the activities set out in this sub-criterion. The risk assessment report for the NPOs indicate that 22 STRs related to NPOs (with one relating to TF) were filed to the FIC between 2010 and 2018 (pg 14 & 15 of the report). The FIU analysed the STRs and shared one intelligence with the National Intelligence Bureau. However, Ghana could not demonstrate that the other competent authorities have put in place mechanisms enabling prompt sharing of such information and what these mechanisms are. Other than the information shared by the FIU, no procedure on prompt sharing of information between competent or investigative authorities was provided.

16. Article 3(7) of the Directives provides for the NPOs Secretariat to cooperate with relevant international LEAs in investigations and sharing of information. However, the provision does not expressly designate the NPOs Secretariat as the point of contact. Although the FIC can respond to international requests for information regarding NPO upon request via FIU-to-FIU channel, Ghana has not developed procedures to respond to international requests for information regarding NPOs suspected of TF or involvement in other forms of terrorist support.

17. Overall, Ghana has shown some progress, including the conduct of a risk assessment of the NPO sector, issuance of National Policy and Directives on NPOs, implementation of some outreach activities, issuance and dissemination of *Guidance Note on TF Redflags / Indicators for NPOs* and demonstration of the investigative capabilities of LEAs to examine NPOs suspected to be exploited or supporting terrorist or terrorist organisations. However, deficiencies remain, including in relation to the application of a risk-based monitoring, encouragement of NPOs to conduct transactions via regulated financial channels, development and refinement of best practices to address TF risk and vulnerabilities, domestic cooperation and information sharing between competent authorities. In addition, although risk assessment has been conducted for the NPO sector, the assessment did not specifically identify the subset of NPOs at risk of TF abuse. **On this basis, R.8 is re-rated to Partially Compliant.**

Recommendation 33- Statistics (Originally rated PC)

18. Ghana was rated PC in the MER. The deficiencies were the lack of obligation for the different competent authorities to maintain comprehensive statistics on matters relevant to the effectiveness of their AML/CFT system, and the absence of comprehensive statistics on AML/CFT matters.

19. The Anti-Money Laundering (AML) Act, 2020 has addressed the shortcoming relating to the lack of legal obligation for the maintenance of statistics. Section 37 (5) of the Act requires competent authorities to maintain comprehensive statistics on matters relevant to the effectiveness and efficiency of the AML/CFT regime in a format determined by the Financial Intelligence Centre (FIC). Although the FATF standards do not require countries to enact a law

to be in compliance with the requirements of R33, nevertheless, a legally binding obligation to maintain these statistics will compel the relevant authorities to do so.

20. Ghana has demonstrated that it maintains comprehensive statistics on all requirements of the Recommendation. STRs received and disseminated; ML investigations, prosecution and convictions; property frozen, seized and confiscated, and MLA or other international requests for co-operation made and received. The statistics on mutual legal assistance (MLA) or other international requests for co-operation made and received provided some details, including dates and names of countries with which information is shared or exchanged but lack some few details, especially status of requests made and received and timelines within which request made or received were treated. Statistics provided on other international requests for co-operation made and received were limited to the FIC. Although other agencies such as the Economic and Organized Crime Office, (EOCO) and the Police /Ghana office of INTERPOL, maintain statistics on international cooperation, no statistics were provided in this regard to enable experts ascertain whether they are sufficiently maintained in a comprehensive manner. Overall, the statistics on MLA or other international requests for co-operation made and received are not sufficiently maintained in a comprehensive manner, which is considered a minor shortcoming. **On this basis, R.33 is re-rated to Largely Compliant.**

Recommendation 35- Sanctions (Originally rated PC)

21. Ghana was rated PC in its 2nd round MER due to the limited range of administrative sanctions as there were no clear provisions for financial sanctions. In addition, the fines under Section 18 of Act 874 were not proportionate or dissuasive, as they were pegged at \$6,000 no matter the severity of the offence, while specific administrative sanctions applicable to institutions and their Directors/Senior Management are not specifically stated.

22. The AML Act, 2020 has addressed these deficiencies. The Act provides for administrative and financial sanctions. Sections 48 and 53 of the Act, provides a wide range of proportionate and dissuasive sanctions, including custodial sentences, which deal with natural and legal persons who fail to comply with the requirements of Recommendations 6 and 8 to 23. The Act specifically provides for fines ranging from five hundred penalty units to four thousand penalty units or a term of imprisonment of not less than six months and not more than five years or to both. In particular, Section 53 of the Act empowers all supervisory bodies or the Financial Intelligence Centre to administer a range of administrative sanctions for infractions of AML/CFT obligations under the Act. These administrative penalties include warnings, suspension of license, revocation of license and the imposition of financial penalties ranging from five hundred penalty units to one hundred thousand penalty units (\$1,500 - \$300,000). The penalties under the AML Act, 2020 apply to both natural and legal persons, including all accountable institutions (FIs and DNFBPs), their directors and senior management. Similarly, the financial regulators in collaboration with the FIC jointly issued three separate AML/CFT Administrative Sanction/Penalty Policy (FIC and Bank of Ghana, 2018; FIC and Securities and Exchange Commission, 2019; and FIC and National Insurance Commission, 2019). These Policies clearly provide a range of administrative sanctions that could be applied on FIs for non-compliance, including caution or reprimand, disqualifying a person from the management of a regulated financial service provider ; suspension of the authorisation of a regulated entity, in respect of one or more of its activities, for a period not exceeding 12 months; revocation of a regulated entity's operating license; directive to cease a contravention, if the contravention is found to persist, blacklisting or barring an individual from employment within the sector; and naming and shaming in the media to act as deterrent for

future breaches of the AML/CFT regime in Ghana. The Anti Terrorism (Amendment) Act, 2012, Anti Terrorism Regulation, 2012, and the Executive Instrument 2 (*Instructions for the Implementation of United Nations Security Council Resolutions 1267 (1999), 1373 (2001), 1718 (2006), 1737 (2006), Successor Resolutions and Other Relevant Resolutions, 2013*) provide for sanctions for failure to freeze funds without delay, among others. In addition, with respect to Recommendation 8, Article 17 (2) of the Directives ; Article 345 (1) and 35(14) etc of the Companies Act contain sanctions for NPOs that violate the provisions of the Regulation and Act. **On this basis, R.35 is re-rated to Compliant.**

IV. CONCLUSION

23. The Republic of Ghana has made progress in addressing the technical compliance deficiencies identified in its 2nd round MER, and has been re-rated on R8 (from NC to PC); R33 (from PC to LC), and R35 (from PC to C).

24. Overall, in the light of the progress made by Ghana since the adoption of its 4th FUR, its technical compliance with the FATF Recommendations has been re-rated as follows:

Table 2. Technical compliance with re-ratings, May 2022

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	LC	C	LC	LC	LC	LC	PC	C	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
C	C	C	C	PC	LC	LC	LC	C	C
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
LC	LC	LC	LC	PC	LC	LC	PC	C	C
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
C	LC	LC	LC	PC	C	LC	LC	PC	LC

Note: There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC)

25. Ghana will remain in enhanced follow-up and will report back to GIABA on progress achieved on improving the implementation of its AML/CFT measures in May 2023.

**GIABA Secretariat
May 2022**



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Follow-up Report & Technical Compliance Re-Rating

The report also looks at whether Ghana measures meet the requirements of FATF Recommendations that have changed since their Mutual Evaluation in 2017.

Follow-up Report