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**Inter-Governmental Action Group against
Money Laundering in West Africa**

English

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SECRETARIAT ANALYSIS

ELEVENTH FOLLOW-UP REPORT OF SIERRA LEONE

GIABA 22nd Technical Commission/Plenary Meeting

10-14 November, 2014

Dakar, Senegal

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*For Further information, please contact : **Inter-Governmental Action Group against Money Laundering in West Africa** Office: **Complexe SICAP, Immeuble A, 1er Etage, Point-E, P.O. Box : 32400 Ponty - DAKAR – SENEGAL** TEL: (+221) 33 859.18.18 - FAX: (+221) 33 824 17 45 secretariat@giaba.org - Website: www.giaba.org*

I. INTRODUCTION

1. The relevant dates for the Mutual Evaluation Report and subsequent follow-up reports of the Republic of Sierra Leone are as follows:

- Date of adoption of Mutual Evaluation Report: June 2007
- Date of first follow-up report: May 2008
- Date of second follow-up report: May 2009
- Date of third follow-up report: May 2010
- Date of fourth follow-up report: November 2010
- Date of fifth follow up report: November 2011
- Date of sixth follow-up report: May 2012
- Date of seventh follow-up report: November 2012
- Date of eighth follow-up report: May 2013
- Date of ninth follow-up report: November 2013
- Date of tenth follow-up report: May 2014

2. The 11th follow-up report of Sierra Leone was submitted to the Secretariat on 1st September, 2014, in line with the GIABA Mutual Evaluation Process and Procedures.

II. SUMMARY OF PROGRESS MADE BY SIERRA LEONE

3. As noted above, the Mutual Evaluation Report (MER) of Sierra Leone was adopted in June 2007 by the GIABA Plenary. Sierra Leone was rated partially compliant (PC) on 9 Recommendations and non-compliant (NC) on 36 Recommendations. These ratings indicated weaknesses in the country's AML/CFT regime. On this basis, the Plenary placed Sierra Leone on the expedited regular follow-up process which required the country to submit annual follow-up reports on the actions it has taken to rectify the identified shortcomings in its AML/CFT regime.

Core¹ Recommendations rated NC or PC
R.1 (PC), R.5 (NC), R. 10 (PC), R.13 (NC), SR IV(NC)
Key² Recommendations rated NC or PC
R. 3 (PC) , R. 26 (NC), R. 35 (PC), R. 36 (NC), R. 40(NC), SR I (NC), SR III (NC), SR V (NC)
Other Recommendations rated PC
R.2, R.9, R.20, R.25, R.33, R.37
Other Recommendations Rated NC
R.6, R.7, R.8, R.11, R.12, R.14, R.15, R.16, R.17, R.18, R.19, R.21, R.22, R.24, R.27, R. 28, R.30, R. 31, R.32, R.34, R.36,R.39, SR VI, SR VII, SR VIII, SR IX.

4. An outline of the follow-up process, including the progress made by Sierra Leone is as follows:

1 The core Recommendations as defined in the FATF procedures are R.1, SR II, R.5, R.10, R.13 and SR IV.

2 The key Recommendations are R.3, R.4, R.23, R.26, R.35, R.36, R.40, SR I, SR III and SR V.

- May 2008 - 1st follow-up report. Sierra Leone was retained on the expedited regular follow-up process.
- May 2009 - 2nd follow-up report. Sierra Leone was retained on the expedited regular follow up process.
- May 2010 - 3rd follow-up report. Sierra Leone did not take satisfactory steps to remedy deficiencies identified in the MER - Sierra Leone was moved to the enhanced follow-up process.
- November 2010 - 4th follow-up report. Sierra Leone did not make significant progress in addressing deficiencies identified in its AML/CFT regime. Sierra Leone was retained on the enhanced follow up process.
- November 2011- 5th follow-up report. As a result of the persistent deficiencies in the AML/CFT regime of Sierra Leone and in line with the decision and directive of the Plenary, the Secretariat published a public statement on Sierra Leone's non-compliance with the FATF Recommendations on the GIABA website. Sierra Leone was retained on the enhanced follow-up process.
- May 2012 - 6th follow-up report. Sierra Leone enacted the AML/CFT Act, 2012 which addressed a significant number of deficiencies identified in the MER. The Plenary directed Sierra Leone to commence implementation of the AML/CFT Act. The Public Statement issued on Sierra Leone was removed. Sierra Leone was retained on the enhanced follow-up process.
- November 2012 - 7th follow-up report. Sierra Leone made limited progress with regard to implementing the AML/CFT Act. The Plenary concluded that the next steps on the enhanced process should be applied and directed the Secretariat to write a letter to the highest political authority in Sierra Leone to draw their attention to the need for the country to urgently address the deficiencies in its AML/CFT system and to undertake a High-level mission to Sierra Leone to engage the political authorities. Sierra Leone was retained on the enhanced follow-up process.
- May 2013 - 8th follow-up report. The Plenary observed that some key deficiencies remained in Sierra Leone's AML/CFT system and directed the country to engage with the GIABA Secretariat for assistance to develop mechanisms to implement UNSCRs 1267 and 1373; an effective supervisory framework for relevant reporting entities; and to provide adequate resources for the FIU to facilitate its effective functioning. Sierra Leone was retained on the enhanced follow-up process.
- November 2013 - 9th follow-up report. The Plenary encouraged the country to increase the pace of implementation particularly as regards ensuring that the FIU is fully operational; enacting regulations related to UNSCR 1267 and 1373; ensuring that the country ratifies the Palermo Convention and ensuring effective functioning of the Inter-Ministerial Committee (IMC). Sierra Leone was retained on the enhanced follow-up process.
- May 2014 - 10th follow-up report. Sierra Leone took some steps aimed at strengthening the country's AML/CFT regime. The Plenary observed that these steps did not significantly impact on the country's compliance with the SRI, SRIII and R36 and directed Sierra Leone to address the outstanding deficiencies

under these Recommendations. Sierra Leone was retained on the enhanced follow-up process.

III. SUMMARY OF THE FINDINGS OF THE ELEVENTH FOLLOW-UP REPORT

5. The eleventh follow-up report of Sierra Leone describes actions taken by the country to rectify the remaining deficiencies in its AML/CFT regime since the submission of its tenth follow-up report to the Secretariat in May 2014. The following actions were taken by Sierra Leone:

- Ratification of the Palermo Convention;
- Commencement of the National Risk Assessment;
- Delivery of training on AML/CFT compliance to commercial banks by the Financial Intelligence Unit (FIU);
- Strengthening AML/CFT supervision of reporting entities;
- Development of the national anti-corruption strategy and the reform of public financial management;
- The FIU conducted an exploratory discussion with the regulatory body for the accountancy profession; and
- The FIU enter into a Memorandum of Understanding (MOU) with the country's leading telecommunication company, Airtel (SL) Limited, for the purpose of carrying out AML sensitisation.

IV. ANALYSIS OF COMPLIANCE WITH THE CORE RECOMMENDATIONS

Recommendation 1 (PC)

6. Sierra Leone enacted the law criminalizing money laundering under the AML Act of 2005. This law was repealed with the enactment of the AML/CFT Act, 2012. Thus, legislation criminalizing money laundering has been in force for several years in Sierra Leone. However, ascertaining the effectiveness of the legislation, a criterion under Recommendation 2, remains difficult due to the lack of money laundering convictions in the country.

7. ***Issues for Plenary:*** The country should intensify efforts to facilitate money laundering convictions.

Special Recommendation II (NC)

8. As regards SR.II, section 16(1) of the AML/CFT Act, 2012 does not cover funds or support given to an individual terrorist or organization where the funds are in no way linked to a terrorist act, in line with the Interpretative Notes to SR.II. There is the need for Sierra Leone to address this gap to ensure full compliance with the requirements of SR II.

Recommendations 5 (NC)

9. On Recommendation 5, the follow-up report states that measures were taken by the Bank of Sierra Leone to strengthen enforcement and regulation in respect of over- the-counter

transaction in foreign currencies. At the same time, the Bank of Sierra Leone engaged in extensive dialogue with the “street money changers” in order to persuade them to regularize their operations and obtain the requisite licenses. The Bank of Sierra Leone also relaxed registration requirements for operating a Bureau de Change to permit the money changers to register, thus, beginning the process of bringing the activities of the money changers under some form of monitoring to ensuring compliance with CDD measures. The eleventh follow-up reported notes that the FIU delivered training on Risk Classification and the Application of Know Your Customer (KYC) and Customer Due Diligence (CDD) to two commercial banks.

Recommendations 10 (PC)

10. The FIU conducted on-site examination of four commercial banks during the period under review. Sierra Leone stated that the on-site examinations confirmed that banks are complying with record keeping requirements. The remaining deficiency under Recommendation 10 relates to the ineffective implementation of record keeping requirements by foreign exchange dealers. Sierra Leone is yet to address this deficiency.

V. DETAILED ANALYSIS OF COMPLIANCE WITH THE KEY RECOMMENDATIONS

Recommendation 3 (PC)

11. With regard to Recommendation 3, the country reported that from March to July 2014 the total assets recovered from forty one (41) cases of corruption and allied offence amounted to Le 386,792,000 (US\$ 87,907). Four (4) of the forty-one cases resulted in convictions.

Recommendation 13 (NC)

12. With regard to Recommendation 13, the MER revealed that there was no effective implementation of Money Laundering Regulation requirements by FOREX dealers. Sierra Leone is yet to address this deficiency.

Recommendation 23 (LC)

13. Sierra Leone has continued to strengthen AML/CFT regulation and supervision of banks. As noted in paragraph 9 above, during the period under review, the Financial Intelligence Unit conducted four (4) onsite examinations on commercial banks. The examination reports highlighted gaps in the implementation of certain AML/CFT measures and the defaulting banks were given 90 days to remedy the identified gaps. Also, the onsite examination and offsite surveillance of commercial banks carried out by the Bank of Sierra Leone revealed that five banks were in breach of the Banking Act, 2011 and the Prudential Guidelines. Three of these banks were fined the sum of Le 50million (\$11,300) for granting credit without reference to the Credit Bureau, a reliable creditors’ database that provides credit information on individuals and businesses in Sierra Leone. The country noted that violations by the three banks could be linked to weaknesses in their CDD processes. Sierra Leone also reports that the consolidated examination manual for banks has been revised by the FIU and will be forwarded to the Secretariat once the Bank of Sierra Leone provides inputs and comments on the revised draft. As regards supervision of the insurance sector for AML/CFT issues, the FIU undertook an exploratory visit to the insurance sector during the period under review.

Recommendation 26 (NC)

14. During the period under review, the FIU received a total of 44,083 Currency Transaction Reports from fourteen (14) commercial banks and five (5) Suspicious Transaction Reports (STRs) from reporting entities. Results of the analyses of four of the five STRs were disseminated to the law enforcement agency for investigation. Prosecution on one of the four cases was undertaken, but the case did not result in conviction. Also, the Technical Committee of the Inter-Ministerial Committee endorsed the recruitment of twelve (12) additional staff members for the FIU. These positions were advertised in August 2014 and the recruitment process will be completed by the end of September 2015. The eleventh follow-up report further notes that the FIU signed a Memorandum of Understanding with the country's leading telecommunication company, Airtel (SL) Limited, to provide services on the bulk SMS platform in order to increase the FIU's outreach efforts and ensure that the ongoing national AML/CFT sensitisation campaigns reach a wider audience.

Recommendation 35 (NC)

15. On Recommendation 35, the United Nations Convention against Transnational Organized Crime (Palermo Convention) and its additional protocols was ratified by Sierra Leone's Parliament on 24 July, 2014 and the instrument of ratification was deposited with the United Nations on 12 August, 2014. Sierra Leone reports that most of the provisions of the convention have already been incorporated into national laws, including the Anti-Corruption Act, 2008 and the AML/CFT Act, 2012.

Recommendation 40 (NC)

16. As regards Recommendation 40, Sierra Leone has continued to strengthen international cooperation. During the period under review, the Sierra Leone FIU signed MOUs with the FIUs of Burkina Faso, Cape Verde, Ghana, Nigeria, and Niger.

Special Recommendation I and III (NC)

17. Concerning SRI, the MER noted that the obligations under UNSCRs 1267 and 1373 were not implemented. As regards SRIII, the MER stated that there were no processes in place to deal with matters relating to UNSCRs 1267 & 1373. Specifically, there were no mechanisms and procedures to implement UNSCRs 1267 and 1373 as no legislative, regulatory or institutional action had been taken by Sierra Leone to address obligations under SRIII. The Regulations for the implementation of UNSCR 1267 and 1373 were initially placed before the Parliament for endorsement about 18 months ago. Sierra Leone reported that it is awaiting Parliamentary endorsement of the Regulations. It is important to note that Section 170 (7) of the Sierra Leone Constitution states that “*Any orders, rules or regulations made by any person or authority pursuant to a power conferred in that behalf by this Constitution or any other law-*

- a. shall be laid before Parliament;*
- b. shall be published in the Gazette on or before the day they are so laid before Parliament;*
- c. shall come into force at the expiration of a period of twenty-one days of being so laid unless Parliament, before the expiration of the said period of twenty-one days, annuls any such orders, rules or regulations by the votes of not less than two-thirds of the Members of Parliament”.*

18. Sierra Leone has not indicated that the Regulations have been annulled. The Secretariat is therefore of the view that the Regulations should have come into force, given the provision of the Constitution and the time that has elapsed.

19. *Issues for Plenary:* The absence of a legal framework for implementing UNSCRs 1267 and 1373 represents a gap in the AML/CFT regime of Sierra Leone. The country did not provide any timeline within which the Regulations are expected to come into force. There is the need for Sierra Leone to demonstrate more commitment with respect to implementing UNSCR 1267 and 1373.

VI. REVIEW OF PROGRESS MADE WITH REGARDS TO OTHER RECOMMENDATIONS

Recommendation 6

20. During its onsite examinations of four (4) commercial banks, the FIU assessed risk classification of customers and business relationships with PEPs. The FIU concluded that the parameters used for risk assessment were appropriate and that this signified that banks are adopting a risk-based approach when conducting KYC/CDD.

Recommendations 7, 9, 15 and SRIV

21. As noted in Sierra Leone's previous follow-up report, the country has achieved technical compliance on Recommendations 7, 9, 15 and SRIV. Sierra Leone should ensure effective implementation of the obligations under these recommendations by reporting entities, through effective supervision.

Recommendation 8

22. As regards Recommendation 8, the MER noted that there were no regulations/directives to address the misuse of technological development for money laundering purposes. In addition, policies on the specific risks associated with non-face to face transactions were absent. The AML/CFT Act, 2012 requires reporting entities to put policies and procedures in place to prevent the misuse of technological developments for money laundering purposes. The country should ensure the effective implementation of Recommendation 8 by requiring financial institutions to identify and assess related risk that may arise from new technologies and products and develop policies and procedures to mitigate these risks.

Recommendation 12, 16, 24

23. Recommendations 12, 16 and 24 deal with the obligations of Designated Non-Financial Businesses and Professions (DNFBPs) to conduct CDD in certain instances and to submit STRs, as well as the requirement to subject casinos and other DNFBPs to AML/CFT regulation and supervision. Sierra Leone reports that the FIU intends to build the capacity of the Institute of Chartered Accountants of Sierra Leone (ICASL) and the General Legal Council to supervise and examine their respective sectors. During the period under review, the FIU held discussions with the President of the Institute of Chartered Accountants of Sierra Leone on working together to issue AML/CFT standards to the accountancy profession. Sierra Leone

intends to accelerate the ongoing engagement with key DNFBPs to bring the sector under supervision to ensure compliance with AML/CFT standards.

Recommendation 17

24. As regards Recommendation 17, Sierra Leone notes that the country is finalizing the schedule of administrative sanctions for violation of the preventive measures.

Recommendations 20

25. On Recommendation 20, the MER stated that Sierra Leone did not conduct an assessment that will permit the country to find out if there is the need to extend AML/CFT requirements to non-financial businesses and professions other than those listed in the FATF standards. The MER also noted that effort has not been made to reduce the reliance on cash for transactions. The country reports that the FIU has made a policy proposal to include shipping agencies, clearing and forwarding houses and car dealers as reporting entities. The proposal which will require an amendment of the First Schedule to the AML/CFT Act, 2012, has been forwarded to the IMC for approval. Sierra Leone also notes that the ongoing National Risk Assessment will look at financial inclusion as a means of reducing reliance of cash.

Recommendations 27 and 28

26. As regards Recommendation 27, the MER noted that Sierra Leone has no law enforcement agency (LEA) with full investigative powers that has been assigned the responsibility to investigate ML and TF cases and no money laundering investigations have been conducted. The deficiency identified under Recommendation 28 was an absence of evidence to demonstrate the effective implementation and use of investigative powers under the AML Act. The eleventh follow-up report notes that the TOCU is currently investigating a case relating to financial crime (attempted larceny) involving the sum of \$11,600 obtained from a commercial bank. Sierra Leone has also reported that the Anti-Corruption Commission obtained judgement in the landmark case of *The State vs Katta and others*, where the accused persons were convicted for the offences of illicit enrichment and failure to declare assets. The successful prosecution of the offence of illicit enrichment should be acknowledged as a significant achievement that potentially demonstrates the improvement of investigative processes and capabilities of the Sierra Leone LEA. Sierra Leone is however yet to address the specific deficiencies identified under R27.

Recommendation 31

27. As regards Recommendation 31, the Technical Committee of the Inter-Ministerial Committee held its third meeting during the period under review. Sierra Leone also informed the Secretariat that the Inter-Ministerial Committee (IMC) met for the first time on 16 September 2014. The meeting was chaired by the Minister of Finance and Economic Development and attended by the Minister of Internal Affairs, the Deputy Minister of Justice, the Governor of the Central Bank and the Director of the FIU. The IMC approved the budget of the FIU; the proposal for recruitment of additional staff; the proposal to extend the range of DNFBPs to include car dealers, clearing and forwarding agencies, shipping agencies and non-profit organisations and gave approval to lay the Regulations for the implementation of UNSCRs 1267 & 1373 before Parliament.

28. The follow-up report states that these meetings have improved the level of domestic cooperation among stakeholders and the participation of a significant number of stakeholders, including regulatory bodies, law enforcement agencies and the private sector in the ongoing National Risk Assessment demonstrates the improved cooperation among agencies to develop and implement policies and activities to combat money laundering and terrorist financing. In July 2014, the Anti-Corruption Commission launched a national strategy to fight corruption. The strategy engaged all relevant stakeholders to identify gaps and design counter measures against graft in all Ministries Departments and Agencies (MDAs) of the government. Similarly, Sierra Leone's Ministry of Finance and Economic Development (MOFED) has embarked on the implementation of a medium term strategy for reforming public financial management. The reform seeks to create an efficient and transparent public financial management system that minimizes opportunities for corruption.

Recommendation 32

29. The MER noted an absence of money laundering and terrorist financing investigation; and the absence of a system to maintain statistics on investigations and prosecutions of money laundering and terrorist financing. International standards require countries to maintain comprehensive statistics on matters relevant to the effectiveness of their AML/CFT systems. This should include statistics on: STRs received, analysed and disseminated; money laundering and terrorist financing investigations, prosecutions and convictions; property frozen, seized and confiscated; and mutual legal assistance or other international requests for cooperation. Sierra Leone forwarded an excel document in which it intends to collect data relating STRs, investigations prosecutions and convictions resulting from the analysis of STRs as well as freezing, confiscation and MLA. Sierra Leone is expected to benefit from entering data from previous years into this document. The country should also ensure that this document reflects ML/TF cases that do not result from a STR. The FIU should also consider implementing mechanisms that will allow it to receive data from the other agencies or ministries on a regular basis.

Recommendations 33

30. As regards Recommendation 33, the MER noted that there was no enforcement mechanism to compel companies to submit annual returns in a timely manner. The MER also stated that information is recorded manually, therefore, the accuracy and reliability of recorded information is in doubt. Sierra Leone has not indicated if the identified deficiencies have been remedied.

Special Recommendation VII

31. The MER recommended that Alternative Remittance Service (ARS) providers should be licensed or registered and subject to all the FATF Recommendations that apply to banks and non-bank FIs. Sierra Leone has not indicated if ARS providers are now licensed or registered and subjected the FATF standards.

Special Recommendation VII

32. The deficiency identified under SRVII was a lack of effective implementation of wire transfer requirements. The follow up report notes that the FIU has conducted onsite and offsite examination of financial institutions to assess the effectiveness of wire transfers requirements.

Sierra Leone did not indicate if there is effective implementation of wire transfer measures as specified under SR VII.

Special Recommendation VIII

33. Sierra Leone is yet to implement measures for the effective supervision of NPOs.

VII. CONCLUSION

34. Sierra Leone is making effort to strengthen its AML/CFT regime. The country has commenced the AML/CFT National Risk Assessment and strengthened AML/CFT supervision of banks. In addition, the FIU has delivered training to commercial banks and has taken steps to intensify awareness raising efforts among other AML/CFT stakeholder institutions. Significantly, Sierra Leone has ratified the Palermo Convention, a most welcome development. The FIU signed cooperation agreements with the FIUs of Burkina Faso, Cape Verde, Ghana, Nigeria, and Niger. As part of its AML efforts, Sierra Leone launched an anti-corruption strategy and initiated a reform of public financial management. Despite these efforts, Sierra Leone is yet to ensure that all reporting entities including designated non-financial businesses and professions (DNFBPs) and non-bank financial institutions comply with AML/CFT obligations and are monitored for this purpose.

35. More important, the country is yet to address outstanding deficiencies under SRI and SRIII. It may be recalled that at the GIABA 19th Plenary and Technical Commission meeting, the Plenary expressed concerns that certain key deficiencies remained in the country's AML/CFT system and directed Sierra Leone to urgently engage with the GIABA Secretariat for guidance and assistance to address these. The three key areas were (i) Development of mechanisms to implement UNSCRs 1267 and 1373 and their succession resolutions (ii) Adoption of an effective supervisory framework for relevant reporting entities; and (iii) Adequate resourcing of the FIU to facilitate its effective functioning. At that time, the Plenary decided that if Sierra Leone failed to take actions to address the deficiencies in these areas, the Plenary will direct the Secretariat to issue a Public Statement on the country's non-compliance with the FATF Recommendations. Sierra Leone initiated actions to address the three concerns and specifically, with regards to the development of mechanisms to implement UNSCRs 1267 and 1373, Regulations were adopted by the Minister of Finance and Chairman of the Inter-Ministerial Committee and laid before Parliament. Since that time, the country has not made progress in respect of establishing mechanisms to implement UNSCRs 1267 and 1373.

36. Nevertheless, in the last two years, particularly since the appointment of the current director of the FIU, Sierra Leone has made progress in implementing AML/CFT measures of acceptable international standards in certain key areas. As regards the outstanding action relating to the establishment of mechanisms to implement UNSCRs 1267 and 1373, Sierra Leone indicated in the country's 11th follow-up report that some form of intervention by GIABA may be necessary to ensure prompt adoption of the Regulations.

37. Sierra Leone should be commended for these AML/CFT efforts. Nonetheless, given the importance of establishing mechanisms to implement UNSCRs 1267 and 1373, the Secretariat recommends that Sierra Leone should be retained on the enhanced follow up process. Also, in line with the request by Sierra Leone for GIABA's support, it is further recommended that the Plenary should direct the Secretariat to send a letter to the relevant minister in Sierra Leone,

drawing attention to the country's non-compliance with Special Recommendations I and III. Sierra Leone should provide the Secretariat with its twelfth follow-up report in May 2015.

**GIABA Secretariat
October 2014**