



Intergovernmental Action Group against Money Laundering in  
West Africa

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SECRETARIAT'S ANALYSIS  
NINTH FOLLOW-UP REPORT OF SIERRA LEONE  
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## SECRETARIAT'S ANALYSIS NINTH FOLLOW-UP REPORT OF SIERRA LEONE

GIABA 20<sup>th</sup> Technical Commission/Plenary Meeting  
Cotonou - Benin

**GIABA 20<sup>th</sup> Technical Commission/Plenary Meeting**

**November 4 – 7, 2013**

**HOTEL AZALAÏ DE PLAGE  
COTONOU, BENIN**

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## **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 previous follow-up reports: May 2008, May 2009, May 2010, December 2010, November 2011, May 2012, November 2012 and May 2013

2. Sierra Leone submitted its ninth follow-up report together with supporting documents to the Secretariat in October, 2013 for presentation at the November, 2013 Plenary. The analysis and conclusions in this report are based on the follow-up report and documents submitted by Sierra Leone.

3. The Mutual Evaluation Report of Sierra Leone was adopted by the 7<sup>th</sup> GIABA Plenary in June, 2007. Overall, Sierra Leone was rated partially compliant (PC) on 9 Recommendations and non-compliant (NC) on 36 Recommendations. The rating signified significant weaknesses in the country's AML/CFT regime. In line with GIABA mutual evaluation (ME) process and procedure for the first round of MEs, 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 deficiencies identified in its AML/CFT regime.

<b>Core<sup>1</sup> Recommendations rated NC or PC</b>
R.1 (PC), R.5 (NC), R. 10 (PC), R.13 (NC), SR IV(NC)
<b>Key<sup>2</sup> Recommendations rated NC or PC</b>
R. 3 (PC) , R. 26 (NC), R. 35 (PC), R. 36 (NC), R. 40(NC), SR I (NC), SR III (NC), SR V (NC)
<b>Other Recommendations rated PC</b>
R.2, R.9, R.20, R.25, R.33, R.37
<b>Other Recommendations Rated NC</b>
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. Sierra Leone presented its third follow-up report in May 2010. At that time, the Plenary concluded that Sierra Leone had not taken satisfactory steps to rectify the deficiencies identified in its AML/CFT system and thus, moved the country to the enhanced follow-up process, which requires the country to provide a follow-up report at every GIABA Plenary.

5. The fourth and fifth follow-up reports of Sierra Leone revealed that the country had not taken any satisfactory step to deal with the identified deficiencies. Consequently, upon the discussion of its fifth follow-up report in November 2011, the Plenary noted the persistent poor level of implementation of the recommendations in Sierra Leone AML/CFT regime particularly the non-passage of the revised AML/CFT law, and hence issued a public statement on Sierra Leone's non-compliance on the GIABA website calling the attention of the international financial systems to the risk of money laundering in the country.

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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.

6. Sierra Leone reported in its sixth follow-up report of May, 2010 that the country had enacted the AML/CFT Act. The Plenary acknowledged the passage of the country's AML/CFT law as a significant step. The Plenary nevertheless, noted that the new legislation required effective implementation. Consequently, the Plenary elected to remove the Public Statement issued on Sierra Leone while retaining the country on the enhanced follow-up process.

7. The Plenary discussion on the 7<sup>th</sup> follow-up report of Sierra Leone in November, 2012 concluded that the report did not give any indication that the effective implementation of the AML/CFT Act was underway. Consequently, the Plenary instructed the Secretariat to write a letter to the highest political authority in Sierra Leone to draw attention to the need for the country to urgently address the deficiencies in its AML/CFT system and in addition, directed that a high-level mission should be undertaken to Sierra Leone to engage the political authorities.

8. Sierra Leone submitted its eighth follow-up report in May 2013. The Plenary was concerned about the pace of implementation and noted the persistence of certain key deficiencies in the country's AML/CFT system. In view of this, the Plenary directed Sierra Leone to urgently engage the GIABA Secretariat for guidance and assistance to address the development of:

- i. Mechanisms to implement UNSCRS 1267 and 1373 and their succession resolutions;
- ii. Effective supervisory framework for relevant reporting entities; and
- iii. Adequate resourcing of the FIU to facilitate its effective functioning.

## ***II. Summary of the findings of the ninth follow-up report.***

9. The ninth follow-up report of Sierra Leone describes key actions taken by Sierra Leone since the country submitted its eighth follow-up report to the Secretariat in May, 2013. Sierra Leone has:

- Drafted Regulations for the implementation of United Nations Security Council Resolutions 1267 and 1373, the Terrorism Prevention (Freezing of International Terrorists Funds and other Related Measures) Regulations, 2013. The draft Regulation is presently before Parliament;
- Prepared and issued the Revised Guidelines for Financial Institution on the Prevention of Money Laundering and Terrorist Financing;
- Prepared the Anti-Money Laundering and Combating of Financing of Terrorism Guidelines (AML/CFT Guidelines) for Designated Non-Financial Businesses & Professions (DNFBPS);
- Completed and operationalized the WAMZ Payments System modernization project;
- Acquired a suitable office facility for the Financial Intelligence Unit (FIU);
- Commenced the recruitment of staff for the Financial Intelligence Unit.

### ***III. Analysis of compliance with the Core Recommendations.***

#### ***Recommendation 1 (PC)***

10. With regard to Recommendation 1, Sierra Leone noted in the eighth follow-up report that three criminal cases which might result in money laundering convictions were under investigation. The ninth follow-up report however, states that there are still no money laundering convictions to test the effectiveness of the ML law as required under R2. Sierra Leone notes that a representation from TOCU has held discussions with the Office of the Attorney General and Director of Public Prosecution to prompt action on filing charges for money laundering in certain of the cases.

#### ***Special Recommendation II (NC)***

11. On SR.II, the offence of terrorist financing under section 16(1) of the AML/CFT Act does not cover the funds or support given to an individual terrorist or organization where the funds are in no way linked to a terrorist act, as outlined in the Interpretative Notes to SR.II. The ninth follow-up report notes that the head of legal affairs at the FIU will liaise with the Attorney-General's office and Foreign Affairs department in order to address this shortcoming.

#### ***Recommendations 5 (NC)***

12. The MER noted that there was ineffective implementation of certain requirements of the Money Laundering Regulation particularly in respect of Foreign exchange dealers. Sierra Leone reports that the FIU, in consultation with the Bank of Sierra Leone (BSL) and other relevant stakeholders, has revised and issued guidelines on the prevention of money laundering and terrorist financing for financial institutions. The guidelines aim to provide guidance on the implementation of the AML/CFT law including those relating to CDD measures as outlined under R5. In addition, the ninth follow up report noted that the guidelines for DNFBs and Money and Value Transfer Service have been completed. Sierra Leone has submitted a copy of the guidelines to the Secretariat; there is however, no indication as to when the guidelines will be issued.

#### ***Recommendations 10 (PC)***

13. As regards Recommendation 10, the MER noted that customer identification records are quite basic and there is no implementation of record keeping requirements by foreign exchange dealers. The ninth follow-up report notes that the Bank of Sierra Leone intends to establish basic AML/CFT compliance standards for foreign exchange dealers to address this deficiency.

### ***IV. Detailed analysis of compliance with the Key Recommendations***

#### ***Recommendation 3 (PC)***

14. As regards Recommendation 3, Sierra Leone has established the necessary legal framework for an effective confiscation regime. Although this has resolved the technical shortcoming under R3, there are no cases of confiscation available to prove the effectiveness of the legal framework in place.

### ***Recommendation 23 (LC)***

15. On Recommendation 23 which deals with supervision of reporting entities, the MER noted that only the aspects of AML contained in the examination manual were subject to examination and supervision and that bank examiners were unaware of the contents of the Money Laundering Regulation. The MER recommended that an AML/CFT supervisory methodology should be developed for the supervision manual and further noted that future examinations should be based on the new manual and methodology. The ninth follow-up report states that the FIU, in consultation with the Bank of Sierra Leone and other relevant stakeholders revised and issued guidelines for financial institutions on the prevention of money laundering and terrorist financing. The ninth follow-up report also notes that the staff of the Banking Supervision Department are awaiting training on the consolidated compliance examination manual. The follow-up report does not indicate whether the Bank of Sierra Leone has in fact developed a consolidated manual. In addition, the report does indicate a time frame for the proposed training.

### ***Recommendation 26 (NC)***

16. Sierra Leone reports that the Parliament approved funding for the operations of the FIU in July 2013. The FIU has secured a premises for its operations and has embarked on the recruitment of 10 additional staff members who are expected to resume by mid October 2013. The additional staff complement comprises the Head of Legal Affairs, three Intelligence Officers, one Analyst, one Administration/HR Officer, one Finance Officer, one Confidential Secretary and two support staff. The new staff members will strengthen the capacity of the Unit and enhance its ability to carry out its core activities. The new staff members will however, require training. In the period under review, the FIU received a total of 64,457 currency transactions reports from all thirteen (13) commercial banks and ten (10) suspicious transactions reports (STRs) were received from seven reporting entities. Of the ten STRs, six (6) were disseminated to the law enforcement for investigation and three (3) resulted in criminal proceedings which are currently before the courts.. The follow-up report also notes that the office premises are now ready for the installation of the hardware and software components of the AML/CFT Analytical Software technical assistance by GIABA.

### ***Recommendation 35 (NC)***

17. Concerning Recommendation 35, the MER notes that Sierra Leone has not ratified the Palermo Convention. The ninth follow-up report states that the FIU's newly hired head of legal affairs will engage with the Attorney-General's office and Foreign Affairs Department in respect of compliance with R35.

### ***Recommendation 36 (NC)***

18. On Recommendation 36, the ninth follow-up report noted that the country received one Mutual Legal Assistance request in the period under review.

### ***Recommendation 40 (NC)***

19. The FIU is reviewing a proposed MOU with the FIU of Togo which will be signed at the forthcoming Plenary meeting in Cotonou, Benin.

### ***Special Recommendation I (NC)***

20. With respect to SRI, the Regulation for the implementation of UNSCRs 1267 & 1373 has been prepared and approved by the Minister of Finance and Chairman of The Inter-Ministerial Committee. The Regulation is currently before Parliament.

### ***Special Recommendation III (NC)***

21. On Special Recommendation III, as noted above, the ninth follow-up report states that the Regulation for the implementation of UNSCR 1267 and 1373, the Terrorism Prevention (Freezing of International Terrorists Funds and other Related Measures) Regulations, 2013, is currently before Parliament for endorsement. Sierra Leone did not indicate the likely timeframe within which the Parliament will endorse the Regulation.

### ***V. Review of progress made with regards to other Recommendations***

22. Recommendation 6, 7, 8, 11, 12 and 15 were all rated NC and Recommendation 9 was rated PC. Each of these recommendations relate to preventive measures for financial institutions. Sierra Leone has achieved considerable level of technical compliance on each of these recommendations on account of the enactment of the AML/CFT Act. In addition, Sierra Leone has also issued guidelines for the purpose of implementing the prescribed measures effectively. What remains, is for competent authorities to monitor the implementation of these measures and ascertain effectiveness in accordance with the requirements of the law.

### ***Recommendation 20***

23. The AML/CFT Act 2012 vests implicit powers in the FIU to designate any activity as a non-financial business within the meaning of the FAFT recommendations. In this regard, the ninth follow-up report notes that Sierra Leone has scheduled a National AML/CFT Risk Assessment for early 2014. This risk assessment will guide the process of identifying other businesses and professions that may pose a money laundering or terrorist financing risk. Recommendation 20 also requires countries to take measures to promote the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering including the reduction of cash. In this regard, the Bank of Sierra Leone hosted a three (3) day seminar on financial literacy and mobile money services from 25<sup>th</sup> to 27<sup>th</sup> June 2013. The seminar drew participants from the financial services industry, civil society and regulatory bodies from the sub region. The ninth follow-up report noted that one of the objectives of the seminar was to raise awareness on the benefit of financial services with the view to promoting financial inclusion and narrowing down the cash based system.

### ***Recommendation 21***

24. The ninth follow-up report notes that banks in Sierra Leone take account of high risk jurisdiction in profiling their customers. In addition, the Bank of Sierra Leone and the FIU's off-site review of banks' AML policies focuses on issues such as the institution's dealing with high risk jurisdictions.

### ***Recommendation 24***

25. The eighth follow-up report noted that the draft Gaming and Betting Bill had been finalised. The draft Bill addresses the deficiencies relating to ownership and control of casinos, as well as their licensing and supervision. The ninth follow-up report did not indicate the process or timeframe for the eventual enactment of the Gaming and Betting law.

### ***Recommendation 25***

26. The FIU, pursuant to its powers under section 133 of the AML/CFT Act 2012, issued the Revised Guidelines for Financial Institution on the Prevention of Money Laundering and Terrorism Financing, dated July 2013. The guidelines which apply to *financial institutions and relevant businesses listed in Part I of the First Schedule of the AML/CFT Act, 2012 and any other institution and activity specified by the FIU by order made by statutory instrument*, cover customer due diligence (CDD) measures, identification and verification of customers and application of the risk-based approach in implementing KYC. For instance, the guidelines recognise the use of the National Biometric Voter Identity as acceptable independent source identification for low risk customers. The revised guidelines also cover recognition and reporting of suspicious transactions, record keeping, the role of relevant competent authorities and co-operation with competent authorities. The guidelines offer detailed and comprehensive guidance on the obligation of financial institutions under the Act, employing examples in instances, and should enhance the implementation of the Act and clarify the obligation of reporting entities under the AML/CFT Act. Paragraph 12 of the revised guidelines impose sanctions for non-compliance.

27. It should however, be said that the revised guidelines appear to be a hybrid document in that some portions of the guidelines are couched in the form of a regulation which imposes punishable obligations, while other portions are merely non-obligatory guidance relating to the manner of implementation. The revised guidelines could be improved by differentiating the mandatory elements from the non-obligatory guidance. This may be achieved by linking the mandatory obligations in the guidelines to the AML/CFT Act by reference and explicitly stating that the non-obligatory aspects are mere guidance. A clear separation of the mandatory element and the guidance elements will remove any ambiguity in the interpretation of the guidelines which, in fact, have the force of law based on Sec 133(2) of the Act. Sierra Leone may need to work with draftsmen in the Attorney General's office to achieve this. Sierra Leone has also drafted similar guidelines for the DNFBPs.

### ***Recommendations 27 and 28***

28. The MER noted under R28 that there was no evidence to demonstrate the effective implementation and use of investigative powers of the AML Act. The ninth follow-up report notes that the Sierra Leone Police (SLP) is the lead national investigative law enforcement agency. Sierra Leone maintains that the SLP has the capacity and expertise to handle all types of criminal investigations and further stated that two money laundering investigations have been conducted in the period under review. Sierra Leone however, reports that the charges brought after these investigations were in relation to the predicate offences. Sierra Leone has thus, not demonstrated conclusively that there is effective implementation and use of investigative powers of the AML/CFT Act.

### ***Recommendation 31 (NC)***

29. On Recommendation 31, the ninth follow-up report states that there is an improved level of cooperation among the intelligence and law enforcement agencies of the TOCU and noted that a four (4) day strategic planning retreat held in September, 2013 resulted in the creation of a strategic plan to fight organised crime and implement measures aimed at strengthening bilateral cooperation among agencies of TOCU. Additionally, Sierra Leone is encouraged to intensify efforts to fully implement its National Strategy.

### ***Recommendation 32***

30. With regards to Recommendation 32, the MER noted a lack of statistical data on matters relevant to the effectiveness and efficiency of the country's AML/CFT system. Sierra Leone has indicated that the country intends to address this issue before the May 2014 Plenary, by which time the FIU would have hired the staff that will compile the relevant statistics.

### ***Recommendation 34 (NC)***

31. On Recommendation 34, the MER noted that there were no transparency mechanisms in place in respect of legal arrangements. Sierra Leone has not indicated if the requirements of Recommendation 34 have been met.

### ***Special Recommendation SRVI***

32. On Special Recommendation VI which deals with alternative remittance, Sierra Leone reported in the eighth follow-up report that guidelines will be provided for MVTs. However, the ninth follow-up report did not indicate if any progress has been made in this regard.

### ***Special Recommendation VII***

33. Concerning Special Recommendation VII, the ninth follow-up report states that onsite examinations conducted by the BSL in the period under review indicated that there was marked improvement in Bureau de Change (BDC) and banks' compliance with the exchange control regulation. Sierra Leone did not provide statistics on the number of examination carried out and did not supply the Secretariat with a copy of the exchange control regulations to ascertain whether the regulation covers the requirements of SRVII.

### ***Special Recommendation VIII***

34. As regards Special Recommendation VIII, no progress reported

### ***Special Recommendation IX***

35. On Special Recommendation IX, the ninth follow-up report provided sums on the amount of currency declarations made during the period under review.

## ***VI. Conclusion:***

36. Sierra Leone has made some progress in certain key areas. The FIU has acquired suitable premises to conduct its operations. In addition, the recruitment process for a complement of staff members has virtually been finalised. The country has also issued the

Revised Guidelines for Financial Institutions on the Prevention of Money Laundering/Terrorism Financing. The guidelines, which have the force of law, will undoubtedly promote effective implementation of AML/CFT measures. Significantly, Sierra Leone has drafted the Regulation for the implementation of the United Nations Security Council Resolutions 1267 and 1373 and has tabled the draft Regulation before the Parliament for endorsement. No doubt, the appointment of the new FIU director facilitated the implementation of these measures. Sierra Leone is encouraged to increase the pace of implementation particularly as regards (i) enacting regulations related to UNSCR 1267 and 1373 (ii) ensuring that the FIU is fully operational (iii) ensuring that the country ratifies of the Palermo Convention (iv) developing a consolidated bank examination manual that fully covers AML/CFT supervision, and (v) ensuring effective functioning of the Inter-Ministerial Committee and coordination among competent authorities.

37. In view of the foregoing, the Secretariat recommends that Sierra Leone should be retained on the enhanced follow-up process and the country should provide the Secretariat with its tenth follow-up report in May 2014.

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