INTER-GOVERNMENTAL ACTION GROUP
AGAINST MONEY LAUNDERING IN WEST AFRICA

Fourth Follow Up Report

Mutual Evaluation

GHANA

NOVEMBER 2012



© 2014 GIABA. All rights reserved.
No reproduction or translation of this publication may be made without prior written permission. Requests for permission to further disseminate, reproduce or translate all or part of this publication should be obtained from GIABA, Complexe Sicap Point E Av Chiekh A. Diop, X Canal IV 1er Etage Immeuble A, BP 32400, Ponty Dakar (Senegal). E-mail: secretariat@giaba.org

Name of Country: Ghana

Date of on-site Mutual Evaluation: 20th to 30th April 2009

Name of Assessor Institution: GIABA

Date of adoption of last Mutual Evaluation: November 2009

Date of Follow Up/Progress Report: August 2012

Ratings for Core and Key Recommendations																
Rec	**1**	**3**	**4**	**5**	**10**	**13**	**23**	**26**	**35**	**36**	**40**	**I**	**II**	**III**	**IV**	**V**
	PC	**NC**	**C**	**NC**	**PC**	**PC**	**NC**	**NC**	**PC**	**PC**	**PC**	**PC**	**PC**	**PC**	**PC**	**PC**

Recommended Action (as listed in the MER)	Timetable for adoption of corrective measures	Action(s) already taken	Remaining Actions to be taken (with timelines, if known)	Responsible Institution	Technical Assistance Required
R1 - ML Offence		Criminal Offences (Amendment) Act 2012, (Act 849) which criminalises unlawful use of human parts, sexual exploitation including sexual exploitation of children, illicit tracking in explosives, firearms and ammunition, participation in organised criminal group, racketeering and enforced disappearance was gazetted on 29th June, 2012.	NIL	NIL	NIL
R3 - Confiscation and provisional measures.		The Economic and Organised Crime Office Act, 2010 (Act 2010) comprehensively provides for confiscation of proceeds of crime. Economic and Organised Crime Office (Operations) Regulations 2012 (L. I. 2183) was gazetted on 19th June, 2012. • Confiscations – USD2.64m, EUR76,000.00 including two (2) houses located in two different suburbs in Accra. • Frozen – USD7.39m, GBP75,000.00, EUR87,171.00 and GHS5.34m. • Seizures – USD1.19m, EUR76,000.00 and GHS163,846.79.	Ongoing	EOCO	Training for prosecutors (EOCO, Ghana Police Service, Judiciary, Ghana Bar Association)

Recommended Action (as listed in the MER)	Timetable for adoption of corrective measures	Action(s) already taken	Remaining Actions to be taken (with timelines, if known)	Responsible Institution	Technical Assistance Required
		• Additionally, EOCO has frozen over 150 accounts and seized monies in 19 accounts awaiting further investigation/prosecution.			
R5 - Customer Due Diligence		The Anti-Money Laundering Regulations, 2011 (L. I. 1987) comprehensively address CDD, and include rules related to establishment and verification of identity for natural and legal persons, record keeping, and due diligence for existing clients. Securities and Exchange Commission (SEC) and FIC issued and launched comprehensive Guidelines on CDD for the capital market operators in December 2011. National Insurance Commission (NIC) and FIC issued and launched comprehensive Guidelines on CDD for the Insurance industry on February 8, 2012. Bank of Ghana (BOG) and FIC issued and launched comprehensive Guidelines on CDD for the financial institutions in January 2012.	Ongoing	AIs	Outreach Programmes
R10 - Record keeping		Banks have policies to maintain records of account opening, banking transactions and STRs filed for a minimum of six (6) years consistent with the Banking Act and the Electronic Transactions Act. Banks generally comply with record keeping.	Ongoing	AIs, FIC	Nil
R13 - Suspicious Transaction Reporting		A fully functional FIC has been established and started operations since January 2010. Banks have processes in place for alerts, inquiries and escalation of suspicious activities internally and then filing to FIC. The FIC has received 448 STRs since it began operations.	Ongoing	AIs, FIC	Outreach Programmes

Recommended Action (as listed in the MER)	Timetable for adoption of corrective measures	Action(s) already taken	Remaining Actions to be taken (with timelines, if known)	Responsible Institution	Technical Assistance Required
		It has also received 41,135 CTRs since July, 2012.			
R23 - Regulation, supervision and monitoring		Banks have been supervised to ensure compliance with provisions of AML Act and Regulations i.e. AML policies and procedures for CDD staff training, record keeping and risk assessments. Establishment of a forum for Regulatory Authorities i.e. Bank of Ghana (BOG), Securities and Exchange Commission (SEC), National Insurance Commission (NIC) and National Pensions Regulatory Authority (NPRA). The Forum consists of a Policy Committee of Heads of Regulatory Authorities and a Technical Committee of Operations level staff. AML Units have been established in BOG, SEC and NIC. The 3 Regulators have signed an MOU to cure the deficiency. Sufficient awareness created by way of training given by FinCEN, OTA, GIABA and WAIFEM.	Ongoing	Regulatory Bodies, FIC	NIL
R26 - The FIU		FIC has employed 21 permanent staff plus 8 seconded staff from BOG and EOCO. FIC premises are well secured. A fully functional FIC has been established and started operations since January 2010. The FIC has received 448 STRs since it began operations. It has also received 41,135 CTRs since July, 2012. Various Forms have been developed and are being used by Accountable Institutions.	More capacity building	FIC and Development Partners – FinCEN, NFIU	Sponsorship for mentoring to EGMONT

Recommended Action (as listed in the MER)	Timetable for adoption of corrective measures	Action(s) already taken	Remaining Actions to be taken (with timelines, if known)	Responsible Institution	Technical Assistance Required
		Standard Operating Procedures (SOPs) developed. Functioning Local Area Network (LAN). Flyers and Notices on AML/CFT Compliance have been printed and distributed to AIs including DNFBPs. Analytical software deployed by GIABA and issued to FIC.			
R35 - Conventions		Palermo Convention ratified by Ghana and registered by the United Nations (UN) on 21st August, 2012. Instructions for the implementation of the United Nations Security Council Resolution No. 1267 (1999), United Nations Security Council Resolution No. 1373 (2001), United Nations Security Council Resolution No. 1718 (2006), Successor Resolutions and Other Relevant Resolutions provided in Executive Instrument (E. I.) 8 (2012) gazetted on 27th April, 2012. Anti Terrorism (Amendment) Act, 2012 (Act 842) was gazetted on 20th April, 2012 to empower the Minister for Justice and Attorney General to issue Instructions for effective implementation of UNSCRs.	Ongoing	Inter-Ministerial Committee (IMC) FIC	NIL
R36 - Mutual Legal Assistance (MLA)		Mutual Legal Assistance Act, 2010 (Act 807) has been enacted. The Act outlines responsibilities and procedures for managing MLA requests and other arrangements (MOUs, etc). Over 20 MLA requests received and responded to between January to July, 2012.	Ongoing	Inter-Ministerial Committee, FIC	NIL
R40 - Other forms of co-operation		MLA Act, 2010 (Act 807) provides for procedures for cooperation.	Ongoing	Supervisory Bodies	NIL

Recommended Action (as listed in the MER)	Timetable for adoption of corrective measures	Action(s) already taken	Remaining Actions to be taken (with timelines, if known)	Responsible Institution	Technical Assistance Required
		FIC/EOCO facilitates. Ghana, Nigeria, Liberia and The Gambia have executed MOU on Exchange of Supervisory Information.			
SR.I - Implement UN instruments		Anti Terrorism Regulations, 2012 (L. I. 2181) gazetted on 8th June, 2012 empowers the Minister for Justice and Attorney General issue Instructions in respect of United Nations Security Council Resolutions (UNSCRs). Anti-Terrorism (Amendment) Act, 2012 (Act 842) passed and gazetted on April 20, 2012.	Ongoing	IMC, AIs, FIC	NIL
SR.II Criminalize Terrorist financing		Anti-Terrorism (Amendment) Act, 2012 (Act 842) passed and gazetted on April 20, 2012.	NIL	FIC, EOCO	NIL
SR.III Freeze and Confiscate terrorist assets		Anti Terrorism Regulations, 2012 (L. I. 2181) gazetted on 8th June, 2012. Anti-Terrorism (Amendment) Act, 2012 (Act 842), E. I. 8, (2012), and L. I. 2181 address deficiency.	Ongoing	FIC, EOCO	NIL
SR.IV Suspicious transaction reporting		The FIC is developing a series of outreach meetings with DNFPBs to inform them of their AML/CFT obligations. Gaming Commission and Ghana Bar Association (GBA) targeted. FIC co-sponsoring GBA Annual conference to be held in September 2012.	Ongoing	IMC, FIC	Outreach Programmes
SR.V International Co-operation		Mutual Legal Assistance Act, 2010 (Act 807) enacted. The Act outlines responsibilities and procedures for managing MLA requests and other arrangements (MOUs, etc). Anti-Terrorism Regulations, 2012 (L. I. 2181) gazetted on 8th June, 2012. Anti-Terrorism (Amendment) Act, 2012 (Act 842) passed.	Ongoing	FIC, IMC	Outreach Programmes

Recommended Action (as listed in the MER)	Timetable for adoption of corrective measures	Action(s) already taken	Remaining Actions to be taken (with timelines, if known)	Responsible Institution	Technical Assistance Required
		Six (6) MOUs signed between FIC, Ghana and • Togolese Republic • Burkina Faso • Cote D'Ivoire • Niger • Republic of South Africa • Federal Republic of Nigeria			
Summary of other Recommendations rated PC or NC					
Prioritized Recommendations rated PC					
R 2 - ML offence – mental element and corporate liability		Punishment for ML offence is 10years [S.2 of AML Act, 2008 (Act 749) and Regulations 44 of the AML Regulations, 2011 (LI 1987)]. Freezing and confiscation powers provided in Act 804 further make ML offence dissuasive and proportionate.	Ongoing	FIC, EOCO	NIL
R15 - Internal controls, compliance and audit.		Addressed in AML Regulations 2011, LI 1987. Compliance Officers understand what is required of them. They have formed an association and frequently meet to exchange information and update their knowledge of AML/CFT issues. Compliance Officers in some financial institutions are members of senior management. BOG AML Unit has met with senior management and Board of Directors (BOD) of banks to inform them of the responsibilities under the Act and the Regulations. Addressed in AML Regulations, 2011 (LI 1987). Bank of Ghana has directed all institutions under its domain to set up independent audit functions which report directly to the Board of Directors rather than to operational management.	Ongoing	AIs, Regulatory Bodies and FIC	NIL

Recommended Action (as listed in the MER)	Timetable for adoption of corrective measures	Action(s) already taken	Remaining Actions to be taken (with timelines, if known)	Responsible Institution	Technical Assistance Required
		LI 1987 provides for the training of staff of FIs / AIs. The Regulatory bodies, FIC and the AIs have put in place and implementing comprehensive training for management and staff of FIs and AIs. Banks have submitted evidence of training.			
R17 - Sanctions		Punishment for ML offence is 10years [S.2 of AML Act, 2008 (Act 749) and Regulations 44 of the AML Regulations, 2011 (LI 1987)]. Freezing and confiscation powers provided in Act 804 further make ML offence dissuasive and proportionate.	NIL	NIL	NIL
R18 - Shell banks		FIC/BOG Guidelines addresses these. Also addressed in AML Regulations, 2011 (LI 1987). Guidelines prepared by BOG/FIC to ensure compliance. AML Unit in BOG undertakes risk-based on-site examination visits.	NIL	NIL	NIL
R22 - Foreign branches and subsidiaries		No Ghanaian financial institutions operate foreign branches or subsidiaries. Bank of Ghana has signed MOUs with Nigeria, Liberia and Gambia to share supervisory information	NIL	NIL	NIL
R30 - Resources, integrity and training		FIC does not need permission from any authority to carry out its mandate. Budget provided, personnel recruited. 21 staff recruited, trained and functioning. National Strategy and Action Plan approved, adopted and signed by IMC.	Ongoing	IMC, FIC	NIL
31 - National co-operation		The Inter-Ministerial Committee (IMC) held its maiden meeting on July 20, 2011 and a second meeting on July 25, 2011. Technical	Ongoing	IMC, FIC and Key Stakeholder Institutions	NIL

Recommended Action (as listed in the MER)	Timetable for adoption of corrective measures	Action(s) already taken	Remaining Actions to be taken (with timelines, if known)	Responsible Institution	Technical Assistance Required
		Committee thereof have held meetings since July 2011. The National Strategy and Action Plan on AML/CFT have been endorsed by the IMC. The Technical Committee of the IMC was inaugurated on August 2, 2011 with the mandate to see to the launch and implementation of Ghana's AML/CFT Strategy and Action Plan. IMC met on 31st May, 2012 to consolidate its resolve to fighting ML/TF&P. Budget of GHS60,000.00 approved for outreach programmes.			
R33 - Legal persons – beneficial owners		The Anti-Money Laundering Regulations, 2011 (L. I. 1987) comprehensively address CDD, and include rules related to establishment and verification of identity for natural and legal persons, record keeping, and due diligence for existing clients. Under the Ministries and Agencies (Retention of Funds) Act, 2007 (Act 735), the Registrar General's Department is authorized to retain 20% of money generated in the course of its functions. Acquisition of vehicles, recruitment of additional staff for on-site inspection. Electronic database of the Registrar General's Department records have been created. GOV-NET, an integrated network database sponsored by the World Bank to link data generated by all Ministries Departments and Agencies in Ghana for prompt and efficient access to data	Ongoing	FIC, All key stakeholder Institutions	NIL

Recommended Action (as listed in the MER)	Timetable for adoption of corrective measures	Action(s) already taken	Remaining Actions to be taken (with timelines, if known)	Responsible Institution	Technical Assistance Required
R37 - Dual criminality		New Extradition Bill was reviewed by Parliamentary subcommittee on 6th August 2012.	Enactment of Bill	Parliament, Presidency	NIL
R38 - MLA confiscation and freezing		Mutual Legal Assistance Act enacted. The Act outlines responsibilities and procedures for managing MLA requests and other arrangements (MOUs, etc). Act 804 comprehensively deals with timely seizure and freezing of assets. • Confiscations – USD2.64m, EUR76,000.00 including two (2) houses located in two different suburbs in Accra. • Frozen – USD7.39m, GBP75,000.00, EUR87,171.00 and GHS5.34m. • Seizures – USD1.19m, EUR76,000.00 and GHS163,846.79. • Additionally, EOCO has frozen over 150 accounts and seized monies in 19 accounts awaiting further investigation/prosecution.	Ongoing		
R39 - Extradition		New Extradition Bill reviewed by Parliamentary subcommittee on 6th August 2012.	Enactment of Bill	Parliament, Presidency	NIL
SR.IX Cross Border Declaration & Disclosure		The FIC met with Ghana Revenue Authority (GRA) and the Bank of Ghana's Treasury Department to identify problems in the Declaration Notice and Declaration Form, and their implementation at entry/exit points. GRA to submit currency Declaration to FIC	Ongoing	GRA, FIC	NIL
Prioritized Recommendations rated NC					
R6 - Politically Exposed Persons		The Securities Exchange Commission (SEC), Bank of Ghana (BOG) and National Insurance Commission (NIC) in collaboration with the FIC have developed Compliance Manuals for the Capital Market Operators, Financial Institutions and Insurance Industry in December 2011, January 2012 and February 2012, respectively.	Ongoing	AIs	NIL

Recommended Action (as listed in the MER)	Timetable for adoption of corrective measures	Action(s) already taken	Remaining Actions to be taken (with timelines, if known)	Responsible Institution	Technical Assistance Required
		Addressed in AML Regulations, 2011 (LI 1987)			
R7 - Correspondent Banking		Banks and NBFIs require prior approval from the Bank of Ghana to enter into some cross border correspondent relationships. Central Banks of Ghana, Nigeria, Liberia and The Gambia have executed MOU for cooperation in respect of cross border supervision and exchange of information. Guideline Paragraph 1.12 (a) (iii) of the BOG AML/CFT for banks provides for senior management approval. Addressed in AML Regulations, 2011 (LI 1987).	Ongoing	Financial Regulators	NIL
R8 - New technologies non-face-to-face business		FIC/Bank of Ghana issued guidelines for non-face-to-face banking business. In addition, all banks and NBFIs are required to have in place an IT policy and manuals which are reviewed by Bank of Ghana annually. Copious provision made in the FIC/BOG Guideline on AML/CFT paragraph 1.13. BOG, SEC and NIC have issued AML/CFT guidelines with detail provisions which address the deficiency.	Ongoing	AIs	NIL
R11 - Unusual transactions		Addressed in AML Regulations, 2011 (LI 1987)	STRs Received	AIs	NIL
R12. DNFBP – R5, 6, 8 – 11					
R16 - DNFBP – R13 – 15 & 21		Gaming Commission, Ghana Bar Association targeted. Real Estate (Agency) Bill drafted.	Ongoing	IMC, FIC	Awareness Creation Programmes
R21 - Special attention for higher risk countries		Parliament has passed the Anti-Terrorism (Amendment) Act on March 22, 2012 to enable the Minister Justice and Attorney General to issue Instructions in that respect.	Ongoing	IMC, Financial Regulators, FIC	NIL

Recommended Action (as listed in the MER)	Timetable for adoption of corrective measures	Action(s) already taken	Remaining Actions to be taken (with timelines, if known)	Responsible Institution	Technical Assistance Required
		FIC promptly communicates FATF statements to BOG. BOG has signed MOUs with Nigeria, The Gambia and Liberia.			
R 24 - DNFBP – regulation and monitoring		FIC has established contacts with the DNFBPs and gathered the lists of members / location. Gaming Commission, Ghana Bar Association targeted. Real Estate Agency (Bill) drafted.	Ongoing	IMC, Cabinet	NIL
R 25 - Guidelines and feedback		BOG, SEC and NIC have issued comprehensive guidelines for their respective sectors. BOG has met with Senior Management staff and members of the BOD of FIs to create awareness. Regulators in collaboration with the FIC organised industry workshops for the banking, capital market and insurance sectors to create awareness. SEC, BOG and NIC have developed comprehensive Compliance Manuals for their respective sectors in December 2011, January 2012 and February 2012 respectively.	Ongoing	AIs	NIL
R32 - Statistics		Statistics available at the FIC, the LEAs and the Judiciary. FIC has been established, awareness has been created within LEAs, Judiciary, IMC and other Revenue Agencies. Statistics available at LEAs.	Ongoing	FIC	NIL
R34 - Legal arrangements beneficial owners		Companies Act, 1963 (Act 179) under review	Ongoing	FIC, A-G's Dep't	NIL

Recommended Action (as listed in the MER)	Timetable for adoption of corrective measures	Action(s) already taken	Remaining Actions to be taken (with timelines, if known)	Responsible Institution	Technical Assistance Required
SR.VI AML requirements for money/value transfer services		FIC/BOG Guidelines adequately address the deficiency.	Ongoing	A-G's Dep't, IMC	NIL
SR.VII Wire transfer rules		Bank of Ghana Compliance Guidelines addresses the deficiency.	Ongoing	Banks, FIC and Financial Regulators	NIL
SR.VIII Non-profit Organisations		There is a proposal to restructure the Office of the Administrator of Estates to subsume the functions of the Trusts Commission. This is part of the restructuring of the Registrar General's Department. National Strategy and Action Plan addresses this deficiency. LEAs have attended workshops in this regard. All NGOs/NPOs (supervised or not supervised) are subject to ACT 749 and LI 1987. NGOs information is available at the Department of Social Welfare and Metropolitan/Municipal/District Assemblies.	Ongoing	IMC, FIC	NIL