Anti-money laundering and counter-terrorist financing measures

Senegal

2nd Enhanced Follow-up Report & Technical Compliance Re-Rating



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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SENEGAL: 2nd ENHANCED FOLLOW-UP REPORT
Adopted on 16th February 2022

I. INTRODUCTION

1. Senegal's Mutual Evaluation Report (MER) was adopted in November 2018, validated in May 2019 by the GIABA Plenary. The first enhanced follow-up report with re-ratings for Technical Compliance was adopted in April 2021. This second follow-up report (FUR) analyzes Senegal's progress in addressing the technical compliance deficiencies identified in its MER in relation to Recommendations5, 7, 17, 18, 25, 28 and 31.

2. This report also analyses Senegal's progress in implementing the new requirements of recommendation 21 that have changed since the end of the on-site visit of the ME of Senegal and that could not be considered in the first follow-up report.

3. Upgrades are awarded when sufficient progress has been made. Overall, countries are expected to have addressed most, if not all, of their technical compliance deficiencies by the end of the third year of follow-up. This report does not address Senegal's progress in improving its effectiveness. This progress will be analyzed in the follow-up assessment and may lead to re-ratings of the relevant immediate outcomes, if deemed adequate.

II. FINDINGS OF THE 1ST FOLLOW-UP REPORT WITH RE-RATINGS

4. In its 1st Enhanced follow-up report, Senegal received the following technical compliance ratings.

Table 1. Technical Compliance Ratings[1], April 2021

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

5. Given these outcomes and the level of effectiveness as indicated in the MER, Senegal was maintained under the enhanced follow-up process.

6. The assessment of Senegal's request for technical compliance re-ratings and the preparation of this report were undertaken by the GIABA Secretariat and Mr. Romain Ouattara, a member of the Evaluation and Compliance Group (ECG).

[1]Please note: There are four levels of technical compliance: Compliant (C); Largely Compliant (LC); Partially Compliant (PC); and Non-compliant (NC).

7. Section III of this report summarizes progress Senegal has made in improving technical compliance. Section IV presents the conclusions and contains a table showing the new ratings for the recommendations that have been reassessed.

III. OVERVIEW OF PROGRESS MADE IN IMPROVING TECHNICAL COMPLIANCE

8. This section summarizes Senegal's progress in improving its technical compliance by addressing the technical compliance deficiencies identified in the MER and implementing new requirements where the FATF recommendations have changed since the on-site visit.

3.1. Progress in addressing technical compliance deficiencies identified in the MER

9. Senegal has made progress in addressing the technical compliance deficiencies identified in its MER for Recommendations 6, 7, 25 and 28 rated NC and Recommendations 5, 17, 18 and 31 rated PC. As a result of this progress, Senegal has been re-rated for these recommendations.

Recommendation 5 (originally rated PC)

10. Senegal was rated PC for recommendation 5 in its MER adopted in November 2018 because it did not criminalize the financing of an individual terrorist and terrorist organizations for any purpose. He also did not criminalize the financing of foreign terrorist fighters.

11. The adoption of law 2018-03 relating to AML / CFT and law n ° 2021-33 of 23 July 2021 amending the penal code has enabled Senegal to address all the deficiencies identified in its framework about the R .5.

12. Based on the progress made, R.5 is rated Compliant (C).

Recommendation 7 (originally rated NC)

13. Senegal was rated NC on recommendation 7 in its second round MER adopted in November 2018 because it had not demonstrated that it had put in place a mechanism to combat the Financing of the proliferation of weapons of mass destruction. Particularly, Senegal had not designated the competent authority to order, by decision, the freezing, without delay, of property, funds and other financial resources of persons or entities designated by the UN Security Council, under the Resolutions relating to the fight against the financing of the proliferation of weapons of mass destruction.

14. Senegal has adopted new laws to address the deficiencies identified in the MER in relation to R.7. These include AML/CFT Law 2018-03, Decree 2020-602 of 28th February 2020 on the TFS implementation regime, and Enforcement Order No. 026070 of 24th November 2020 on the assignment, composition, and functioning of the Administrative Freezing Advisory Commission. With these laws, Senegal has made progress in its framework for implementing TFS related to PF, including the designation of the competent authority for TFS, the establishment of procedures and mechanisms for designation (registration on the lists) and the implementation of TFS without

delay.

15. However, there are some moderate outstanding deficiencies: lack of provisions specifically providing that freezing measures may apply to funds or other property of persons and entities acting on behalf of and at the direction of designated persons and entities; lack of clear guidelines that should be provided to FIs and DNFBPs as to their obligations under freezing mechanisms; lack of provision for sanctioning non-compliance by FIs and DNFBPs with the obligations under Recommendation 7; lack of mechanism to provide guidance to FIs and DNFBPs that may hold funds or other assets as to their obligations in relation to delisting and unfreezing actions; failure to take into account the conditions set out under Resolution 2231 in the context of withdrawing funds from frozen accounts under obligations arising prior to the freezing order.

16. **Based on the progress made by Senegal in relation to the deficiencies identified in the MER, R.7 is rated Partially Compliant (PC).**

Recommendation 17 (for which the country was initially rated PC)

17. In its 2nd Round Mutual Evaluation Report adopted in 2018, Senegal was rated PC on R.17 due to the following deficiency: the obligations incumbent on third party providers do not include beneficial ownership identification and the understanding of the nature of the client's business.

18. The adoption of AML/CFT Law 2018-03 has enabled Senegal to make progress in its regulation of the use of third parties, thereby resolving most of the above-mentioned deficiencies.

19. However, there are some minor outstanding deficiencies: the list of countries where third parties are to be located has not been established considering the available information on the level of risk associated with those countries.

20. Based on the progress made by Senegal, R.17 is rated Largely Compliant (LC).

Recommendation 18 (for which the country was initially rated PC)

21. In its 2nd Round Mutual Evaluation Report (MER) adopted in 2018, Senegal was rated PC on R.18 due to the following deficiencies: There are no provisions in force in Senegal that require financial groups to implement within the group some of the AML/CFT programs that should be implemented and be tailored to all their branches and majority-owned subsidiaries. There are no provisions in Senegal that require financial institutions to ensure that their foreign branches and majority-owned subsidiaries implement AML/CFT measures are consistent with those of the home country, where the host country's minimum AML/CFT requirements are less stringent than those of the home country, to the extent permitted by the host country's laws and regulations.

22. The adoption of AML/CFT Law 2018-03 has enabled Senegal to address the deficiencies identified in its system in relation to R.18. A near comprehensive framework has been put in place to: require FIs to put in place policies and procedures for information sharing within financial groups for AML/CFT purposes; specify how branches and subsidiaries of financial groups must implement their home country AML/CFT measures.

23. However, this minor deficiency was identified: there is no provision indicating that where relevant and appropriate for risk management, branches and subsidiaries should also

receive this information from the group compliance functions.

24. Based on the progress made, R.18 is rated Largely Compliant (LC).

Recommendation 25 (for which the country was originally rated NC)

25. In its 2018 2nd Round Mutual Evaluation Report (MER), Senegal was rated NC on R25, due to the following deficiency: Tax legislation recognizes trusts, but Senegal has not taken the steps required by Recommendation 25 to ensure transparency of legal arrangements.

26. Since the adoption of its MER, Senegal has adopted new laws to address the deficiencies identified in its system in relation to R.25, particularly AML/CFT Law 2018-03. With these laws, Senegal has made some progress in its framework governing legal arrangements, including, among others, the obligation for professional trustees to maintain accurate and timely information collected from their clients, the free communication of trust information to competent authorities, FIs and DNFBPs, the powers of competent authorities to access information on legal arrangements in a timely manner.

27. However, some moderate deficiencies are still outstanding: lack of obligation to maintain information about the trustee, protector, beneficiary or class of beneficiary and other agents providing services to the trust; lack of explicit provision obliging trustees to declare their status to financial institutions and DNFBPs when establishing a business relationship; lack of formal mechanism for exchanging available information at national level on trusts or other legal arrangements; lack of sanctions for non-professional trustees in case of non-compliance with their obligations; lack of sanctions for non-compliance with the obligation to make information on trusts available to the competent authorities in a timely manner.

28. Based on the progress made by Senegal regarding the deficiencies identified in the MER, R.25 is rated Partially Compliant (PC).

Recommendation 28 (for which the country was initially rated NC)

29. Senegal was rated NC on recommendation 28 in its second-round mutual evaluation report (MER) adopted in November 2018. The lack of supervisory authorities for DNFBPs, the absence of a requirement for risk assessment, the lack of a legal and institutional framework for identifying, managing, and retaining information on beneficial ownership of legal entities, and the lack of supervision carried out using a risk-based approach are the deficiencies that justified this rating.

30. Since the adoption of the MER, Senegal has adopted new laws to address the deficiencies identified in relation to R.28, notably AML/CFT Law 2018-03 and Decree No. 2019-1500 of 18th September 2019, on the supervision and monitoring of DNFBPs. With these laws, Senegal has made some progress in its DNFBPs AML/CFT supervision framework, including, among others, the designation of supervisory authorities and definition of their powers, definition of supervision and monitoring mechanisms.

31. However, some moderate deficiencies are still outstanding: lack of measures to prevent criminals or their accomplices from becoming the beneficial owners of significant ownership or control in casinos and other DNFBPs; lack of obligation for supervisory and self-regulatory authorities to exercise risk-based supervision; lack of supervision based on ML/TF risk profile of DNFBPs.

32. Based on the progress made by Senegal regarding the deficiencies identified in the MER, R.28 is rated Partially Compliant (PC).

Recommendation 31 (for which the country was originally rated PC)

33. Senegal was rated PC on Recommendation 31 in its second round MER adopted in November 2018, due to the following deficiencies: lack of explicit provision allowing for the deferral of arrests and seizures could be consulted by the assessors. The Investigative Authorities do not have the possibility to request for information from the FIU.

34. The adoption of AML/CFT Law 2018-03 has enabled Senegal to address the deficiencies identified in its operative provisions in relation to R.31.

35. Based on the progress made, R.31 is rated as Compliant (C).

3.2. Progress on recommendations that have changed since the end of ME on-site visit in Senegal

36. Since the end of the ME on-site visit in Senegal, Recommendation 21 has changed but were not reassessed in the first follow-up report.

Recommendation 21 (for which the country was initially rated LC)

37. In February 2018, R.21 was amended to clarify the information sharing requirements for suspicious transactions within financial groups and their interaction with the disclosure and confidentiality provisions. This clarifies that the prohibition on disclosure of information on a suspicious transaction report is not intended to prevent the sharing of information under Recommendation 18 within financial groups.

38. In its 2nd round MER, Senegal was rated C with R.21

39. Since the MER, Senegal has adopted Law No. 2018-03, the provisions of which has enabled it to meet the new requirements of the revised Criterion 21.2 insofar as the disclosure prohibition does not prevent the sharing of information within the same financial group.

40. The rating for R.21 is maintained at Compliant (C).

IV. CONCLUSION

41. Overall, Senegal has made progress in addressing the technical compliance deficiencies identified in its MER and has been re-rated on Recommendations 7, 25 and 28 from Non-Compliant (NC) to Partially Compliant (PC), on Recommendations 17, 18 and 31 from Partially Compliant (PC) to Largely Compliant (LC) and on Recommendation 5 from Partially Compliant to Compliant (C).

42. Measures have been taken by Senegal to comply with the new requirements of Recommendation 21. The Compliant (C) rating is maintained for R.21.

43. Considering the progress made by Senegal since the adoption of its MER, its technical compliance with the FATF Recommendations has been re-evaluated in the following manner:

Table 2. Technical Compliance Rating, February 2022

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

44. Senegal will remain under enhanced follow-up and will continue to report to GIABA on the progress made in the implementation of AML/CFT measures. Senegal will submit its 3rd Enhanced follow-up report to the Plenary in November 2022.

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Follow-up Report & Technical Compliance Re-Rating

The report also looks at whether Senegal measures meet the requirements of FATF Recommendations that have changed since their Mutual Evaluation in 2019.

Follow-up Report