Anti-money laundering and counter-terrorist financing measures

Senegal

3rd Enhanced Follow-up Report & Technical Compliance Re-Rating



3rd ENHANCED FOLLOW-UP REPORT OF SENEGAL
Adopted on 2nd June 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 new ratings for Technical Compliance was adopted in April 2021 and the 2nd in February 2022. This third follow-up report (FUR) analyzes Senegal's progress in addressing the technical compliance deficiencies identified in its MER with respect to Recommendations 1, 4, 6, 8, 19, 24, 26, 34, 36 and 38.

2. This report also analyzes Senegal's progress in implementing the new requirements of Recommendation 2, which has been modified since the end of the on-site mutual evaluation of Senegal and could not be addressed in previous follow-up report.

3. New ratings are awarded when sufficient progress has been made. In general, countries are expected to have addressed most, if not all, their technical compliance deficiencies by the end of the third follow-up year. This report does not address the progress in made by Senegal in improving its effectiveness. Such progress will be analyzed as part of a subsequent follow-up evaluation and could lead to a re-rating under the Immediate Outcomes, if deemed sufficient.

II.FINDINGS OF THE 2ndFOLLOW-UP REPORT WITH RE-RATING

4. In its 2nd enhanced follow-up report, Senegal received the following technical compliance ratings.

Table 1. Technical Compliance Rating[1] , February 2022

R.1	R.2	R.3	R.4	R.5	R.6	R.7	R.8	R.9	R.10
PC	PC	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

5. Based on these results and the level of effectiveness as indicated in the MER, Senegal was retained in the enhanced follow-up process.

6. The assessment of Senegal's request for new technical compliance 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).

7. Section III of this report summarizes Senegal's progress in the area of technical

[1]Note: There are four technical compliance ratings: Compliant (C); Largely Compliant (LC); Partially Compliant (PC); and Non-Compliant (NC).

compliance. Section IV sets out the findings and contains a table indicating the new ratings for the recommendations that have been re-rated.

III. OVERVIEW OF PROGRESS MADE TO IMPROVE TECHNICAL COMPLIANCE

8. This section summarizes Senegal's progress to improve its technical compliance by addressing technical compliance deficiencies identified in the MER and implementing new requirements where 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 with regards to Recommendation 6 rated NC, Recommendations 1, 4, 24, 36 and 38 rated PC and Recommendation 2 rated LC. As a result of this progress, Senegal has been re-rated for these recommendations. With respect to recommendations 8, 19, 26 and 34, Senegal has taken steps to improve its technical compliance; however, the progress made is insufficient to warrant a new rating on these recommendations.

Recommendation 1 (originally rated PC)

10. Senegal was rated PC on recommendation 1 in its REM under the second round adopted in November 2018 because did not have any framework to conduct an ML/TF risks assessment and applying a risk-based approach to mitigate or prevent the identified ML/TF risks.

11. Senegal has adopted new legislation to address the deficiencies identified in the R.1. This includes AML/CFT Law 2018-03 (The Uniform Anti-Money Laundering and Anti-Terrorism Financing Law in WAMU Member States)[2] . With this law, Senegal has made some progress in its AML/CFT risk assessment system, including the completion of the national risk assessment process, the dissemination of the results of the NRA to all AML/CFT stakeholders, the development of the national AML/CFT strategy based on a risk-based approach, the requirement for FIs and DNFBPs to have policies and procedures to mitigate and manage risks, and the authorization for FIs and DNFBPs Allowing FIs and DNFBPs to apply enhanced due diligence measures in lower risk scenarios; Requiring FIs and DNFBPs to assess and understand their AML/CFT risks; Requiring FIs and DNFBPs to apply enhanced due diligence measures in higher risk cases.

12. However, some minor shortcomings remain. FIs and DNFBPs are not required to incorporate information on the higher risks identified by the NRA into their risk assessments, which slightly affects the implementation of their risk-based approach. Moreover, the absence of an express provision obliging supervisory authorities to ensure that FIs and DNFBPs implement their obligations pursuant to Recommendation 1 may limit the scope of their supervision, particularly when FIs and DNFBPs take simplified due diligence measures in low-risk scenarios.

[2] This law transposed WAEMU Directive 02-2015 on the fight against money laundering and terrorist financing in WAEMU Member States. It repeals and replaces the Uniform Anti-Money Laundering Law No. 2004-09 of February 6, 2004 and Anti-Terrorism Financing Law 2009-16 of March 2, 2009.

13. Based on the progress made and because of these residual minor deficiencies, R.1 is rated as Largely Compliant (LC).

Recommendation 4 (originally rated PC)

14. Senegal was rated PC on recommendation 4 in its MER for second round adopted in November 2018 due to two identified deficiencies. The first deficiency is that forfeiture was not possible for all aspects of the terrorism financing offense because Senegal did not criminalize the financing of an individual terrorist and terrorist organizations for any purpose as well as the financing of foreign terrorist fighters. The second gap is that Senegal has not put in place measures, including legislative measures, to prevent or reverse actions that undermine the country's ability to freeze, seize, or recover assets subject to confiscation.

15. The adoption of AML/CFT Law 2018-03, Law 2021-33 of July 23, 2021, amending the Criminal Code, and Law 2021-34 of July 23, 2021, amending the Code of Criminal Procedure, has allowed Senegal to address the deficiencies identified in its system in relation to R.4, making confiscation possible for all aspects of the offense of financing terrorism and allowing measures to be taken to prevent or nullify actions that compromise the country's ability to freeze, seize, or recover property subject to confiscation.

16. Based on this progress, R.4 is rated Compliant (C).

Recommendation 6 (originally rated NC)

17. Senegal was rated NC on recommendation 6 in its MER under the second round adopted in November 2018 because it had not demonstrated that it had a functional mechanism in place to implement targeted financial sanctions related to the TF. Notably, 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 Resolutions 1267, 1373, and subsequent resolutions.

18. Senegal has adopted new laws to address the deficiencies identified in the MER in relation to R.6. These include AML/CFT Law 2018-03, Decree 2020-602 of February 28, 2020, on the implementation regime for TFS, and Enforcement Order No. 20,06070 of November 24, 2020, on the assignment, composition, and operation of the Administrative Freeze Advisory Commission. With these laws, Senegal has made progress in its system for implementing TFS related to TF, in particular the designation of the competent authority for TFS (Minister of Finance), the establishment of procedures and mechanisms for designation (registration on the lists).

19. However, some shortcomings that could sufficiently affect the implementation of the TFSs remain.

20. The inability to freeze the assets of UN-designated persons/entities without delay and the absence of a national list, as well as the absence of provisions protecting the rights of bona fide third parties and the absence of guidelines for FIs and DNFBPs in the implementation of their obligations constitute significant shortcomings regarding C. 6.4, 6.5f and 6.6, which are fundamental components of R6. Since the

implementation without delay of TFSs is the main objective of recommendation 6, the Senegalese system does not currently allow this objective to be achieved. This significantly impacts the country's compliance with R6.R.6 is rated Partially Compliant (PC).

Recommendation 8 (originally rated PC)

21. In its MER under the second round Senegal was rated PC on recommendation 8 adopted in November 2018 in part because its AML/CFT framework does not include a risk-based approach to NPO supervision.

22. Despite the implementation of a new framework including Law 2018-03 on AML/CFT and Decree No. 2019-1500 of September 18, 2019, on the supervision and control of DNFBPs, Senegal has not made progress in addressing the deficiencies identified in the MER. Senegal has not conducted a sectoral risk assessment identifying NPOs with high risk of TF. The measures taken to promote control of NPOs are neither targeted nor based on the TF risks that NPOs face. There is no evidence that Senegal ensures implementation of cooperation, coordination, and information exchange among all appropriate authorities and organizations of relevant information on NPOs. The country has not worked with NPOs to develop best practices that address terrorist financing risks and vulnerabilities, thereby protecting NPOs from being abused for terrorist financing purposes. These shortcomings indicate the absence of essential elements to prevent the abuse of NPOs for TF purposes. These moderate shortcomings handicap the promotion of effective monitoring or control of NPOs likely to be abused for terrorist financing purposes.

23. **In the absence of progress by Senegal on the deficiencies identified in the MER, R. 8 remains Partially Compliant (PC).**

Recommendation 19 (for which the country was initially rated NC)

24. In its REM under the 2nd round of mutual evaluation adopted in 2018, Senegal was rated NC on R.19 because it did not comply with the requirements for risk-proportionate countermeasures as well as those for informing financial institutions about concerns raised by other countries' AML/CFT failures.

25. The adoption of AML/CFT Law 2018-03 has not allowed Senegal to make progress in its regulation of higher risk countries.

26. The deficiencies identified in the MER have not been addressed. FIs in Senegal do not have the obligation to apply enhanced due diligence measures, proportionate to the risks, in their business relationships and transactions with natural and legal persons from countries for which the FATF calls to do so. There is no specific provision requiring the country to implement risk-proportionate countermeasures when called upon by the FATF. There is no explicit requirement to provide measures to advise FIs on weaknesses in other AML/CFT systems. These deficiencies remain important insofar as they do not allow for the application of enhanced due diligence measures and countermeasures when called upon by the FATF.

27. In the absence of progress by Senegal on the deficiencies identified in the MER, R. 19 remains Non-Compliant (NC).

Recommendation 24 (for which the country was initially rated PC)

28. In its REM under the 2nd 2018 round, Senegal was rated PC on the R24 due to several deficiencies including the following: Senegal has not conducted an assessment of ML/CFT risks related to legal entities in the country. Senegal does not have mechanisms in place to ensure that legal entities able to issue shares registered in the name of nominees are not misused. There are no provisions requiring the Competent Authorities to monitor the quality of assistance the country receives from other countries in response to requests for basic information and beneficial ownership information.

29. Senegal has adopted Laws that have enabled it to make progress in terms of the transparency of legal persons; in particular the establishment of the obligation to update basic information on legal persons and their BOs and the institution of a register of BOs at the RCCM for legal persons in the extractive sector and at the tax service for other legal persons. Dissuasive and proportionate sanctions are now provided for any legal or natural person who does not comply with the requirements of recommendation 24. As part of the current update of the NRA, an assessment of the ML risks linked to the different categories of legal persons created in Senegal is conducted.

30. However, minor shortcomings remain, such as the lack of mechanisms in place to prevent the misuse of legal persons able to have nominee shares and nominee directors and the lack of a mechanism to monitor the quality of assistance they receive from other countries in response to requests for basic and beneficial ownership information.

31. Due to the progress made by Senegal, R.24 is rerated Largely Compliant (LC).

Recommendation 26 (for which the country was initially rated PC)

32. In its MER under the second round adopted in November 2018, Senegal was rated PC on recommendation 26. The rationale for this rating was that the risk-based approach was not being applied in AML/CFT supervision of FIs and there was no evidence that the FI inspection program takes into account the FIs' AML/CFT risk profile.

33. Senegal has made some progress in regulating and supervising financial institutions, including the requirement that supervisors ensure that FIs and their foreign branches adopt and enforce measures that comply with the provisions of the Senegalese AML/CFT law. The Commission Bancaire of WAMU has put in place a mechanism to establish risk profiles for financial institutions.

34. However, there are some moderate outstanding deficiencies: Senegal's regulatory framework does not explicitly state that supervision of these structures is risk-based. Senegal's legal and regulatory framework does not require that the frequency and scope of on-site and remote AML/CFT supervision of financial institutions or groups by the supervisors be based on identified ML/TF risks in the country. There is no practice indicating that the supervisor reviews the assessment of the ML/TF risk profile of a financial institution or financial group on a regular basis and as soon as significant events or developments in the management and operations of the financial institution or financial group occur. These deficiencies, all of which relate to the implementation of risk-based supervision, hinder the implementation of Rec. 26.

35. Because of these moderate outstanding deficiencies, Senegal's progress does not allow for a re-rating. R.26 remains Partially Compliant (PC).

Recommendation 34 (for which the country was initially rated PC)

36. In its MER under the second round adopted in November 2018, Senegal was rated PC to Recommendation 34 due to the fact that legal provisions do not appear to require Competent Authorities, Supervisory Authorities, and Self-Regulatory Bodies to fulfill the requirements of R 34 and there are no guidelines taken by the DNFBP Supervisory Authorities.

37. To date in Senegal, guidelines have been issued and feedback is provided to most financial institutions. However, apart from the notaries, the DNFBPs have not received any guidelines and feedback is not provided due to the lack of inspection by their supervisory authorities. These deficiencies are likely to deprive certain financial institutions and most designated non-financial businesses and professions of guidance in the application of AML/CFT measures.

38. Due to these outstanding moderate deficiencies, R.34 is maintained at Partially Compliant (PC).

Recommendation 36 (for which the country was initially rated PC)

39. Senegal was rated PC on Recommendation 36 in its second round EMR adopted in November 2018 because it was not implementing all relevant provisions of international conventions (Palermo and Merida Conventions as well as the Convention on the Financing of Terrorism).

40. Since the adoption of the MER, Senegal has adopted several laws that have allowed it, for example, to complete the criminalization of terrorist financing

41. However, with regard to the implementation of the relevant provisions of the Palermo and Merida Conventions, minor deficiencies related to the status of politically exposed persons, transparency of legal persons, and the obligations and supervision of financial institutions and DNFBPs are still outstanding.

42. Consequently, the country's rating on Recommendation R.36 is Largely Compliant (L.C).

Recommendation 38 (for which the country was initially rated PC)

43. Senegal was rated PC on Recommendation 38 in its MER under the second round adopted in November 2018 for the following reasons: Senegalese law does not allow for the implementation of non-conviction-based forfeiture assistance even in cases where the offender is dead, fugitive, absent or unknown. Senegal has not signed any agreement with neighboring countries or other countries to coordinate seizure and confiscation. Senegal does not have centralized body to coordinate the management of all seized or confiscated assets.

44. Since the adoption of its MER, Senegal has adopted measures to address the identified shortcomings. Senegal has created ONRAC which contributes to the improvement of cooperation in matters of confiscations and provisional measures. ONRAC has the capacity to

manage and possibly dispose of frozen, seized, or confiscated property. Senegal has the authority to provide assistance in connection with requests for cooperation based on non-conviction-based confiscation proceedings and associated provisional measures.

45. However, a minor deficiency remains: There is no evidence that in practice coordination is made with other States in matters of seizure and confiscation.

46. Given the progress made, R.38 is re-rated Largely Compliant (L.C).

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

47. Since the end of Senegal ME site visit, Recommendation 2 has been modified but has not been reassessed in previous follow-up reports.

Recommendation 2 (for which the country was initially rated LC)

48. In October 2018, R.2 was amended to require countries to ensure that competent authorities cooperate and coordinate with each other to ensure compatibility of AML/CFT requirements with data protection and privacy rules. The amended recommendation also requires a national information exchange mechanism.

49. In its MER under the second round, Senegal was rated LC due to the fact that it did not have a national AML/CFT policy/strategy that would take into account all of the national actors with all of the risks identified in the National Risk Assessment Report.

50. Since the MER, Senegal has adopted Law No. 2018-03 and Decree No. 2019-1499, the provisions of which enable it to meet the requirements of the revised Criterion 2.3 on information exchange and the new Criterion 2.5 on compatibility between AML/CFT requirements and data protection measures. There are a number of standing committees, working groups and additional mechanisms to coordinate and cooperate at the national level on AML/CFT operational policies and activities, as well as to ensure compatibility of AML/CFT requirements with data protection and privacy rules or other similar requirements. In addition, the adoption of the NRA Action Plan and the National AML/CFT Strategy 2019-2024 with a budgeted action plan as well as the recent update of the NRA addressed the deficiency that was identified in the MER.

51. No outstanding deficiencies and R2 is rated Compliant (C) consequently.

IV. CONCLUSION

52. Overall, Senegal has made progress in addressing the technical compliance deficiencies identified in the MER and has been reassessed on recommendation 6 from Non-Compliant (NC) to Partially Compliant (PC), on recommendations 1, 24, 36 and 38 from Partially Compliant (PC) to Largely Compliant (LC), and on recommendation 4 from Partially Compliant (PC) to Compliant (C). The ratings of Non-Compliant (NC) for recommendation 19 and Partially Compliant (PC) for recommendations 8, 26 and 34 remain unchanged.

53. Measures have been taken by Senegal to comply with the new requirements of Recommendation 2 and to address the deficiency that was identified in the REM. R.2 has been

reassessed from Largely Compliant (LC) to Compliant (C).

54. Based on the progress made by Senegal since the adoption of its MER, its technical compliance with the FATF Recommendations is established as follows

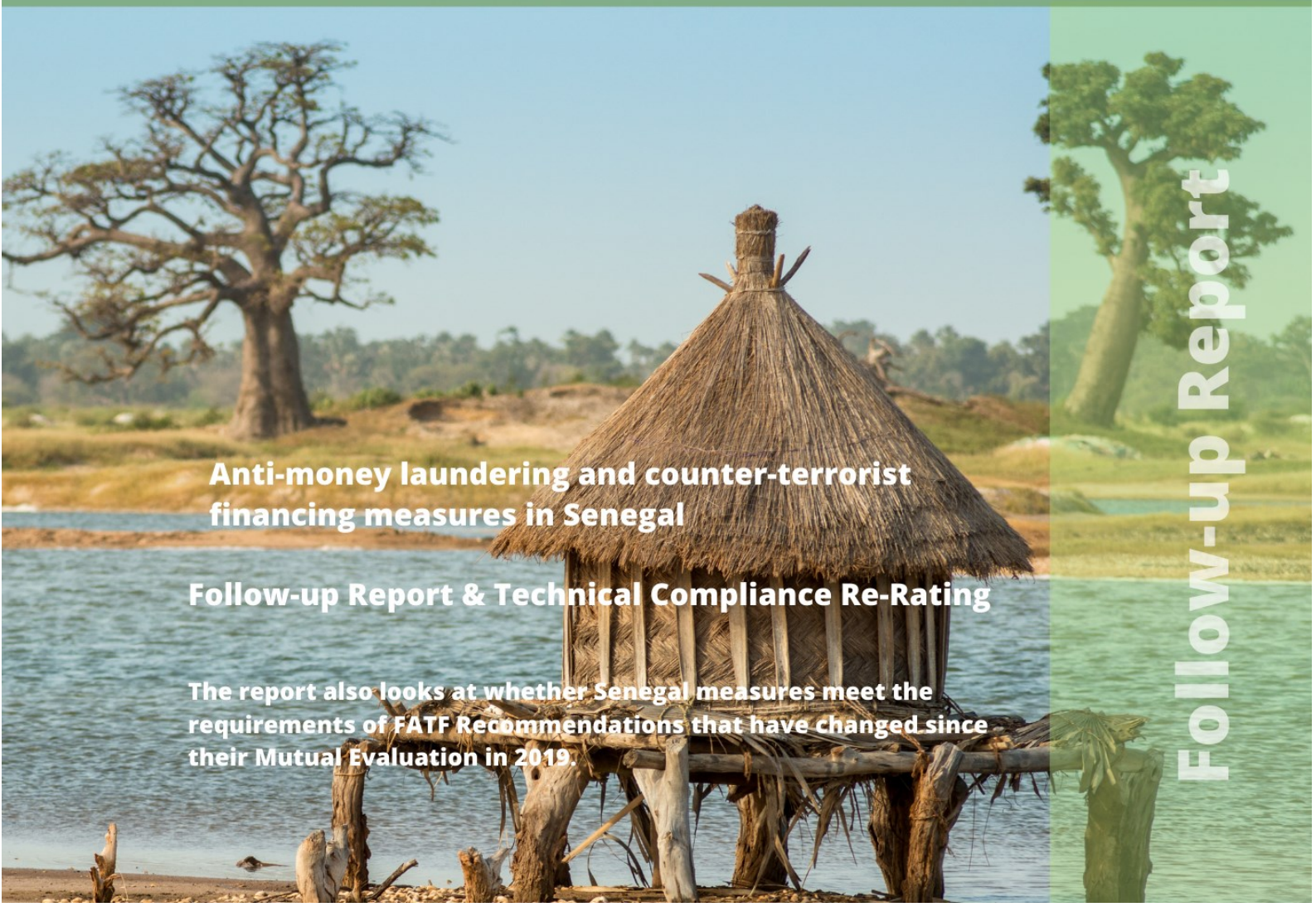
Table 2. Technical Compliance Rating, June 2022

R.1	R.2	R.3	R.4	R.5	R.6	R.7	R.8	R.9	R.10
LC	C	LC	C	C	PC	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	LC	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	LC	C	LC	LC	LC

55. Senegal will remain under enhanced follow-up and will continue to report to GIABA on its progress in implementing AML/CFT measures. Senegal will submit its 4th enhanced follow-up report to the Plenary in November 2022.

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Anti-money laundering and counter-terrorist financing measures in Senegal

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