	Inter-Governmental Action Group against Money Laundering in West Africa (GIABA)	*GIABA/PLEN.IX/08/04* **CONFIDENTIAL**

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MUTUAL EVALUATIONS

MUTUAL EVALUATION OF SIERRA LEONE
FIRST FOLLOW UP REPORT

Inter-Governmental Action Group against Money Laundering in West Africa (GIABA)

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1. INTRODUCTION

This paper represents Sierra Leone's first report to the Plenary on the progress made to address the deficiencies identified in the Mutual Evaluation Report (MER) of the Republic of Sierra Leone. The MER was discussed and adopted at the 7th GIABA Plenary in June 2007 in Banjul, The Gambia and was subsequently accepted by the Government of Sierra Leone as it reflected a fair assessment of the AML/CFT situation in the country. Permission was sought from the authorities for the report to be published.

Following deliberations of the Plenary, it was agreed that Sierra Leone has made significant efforts to address the shortcomings identified in the report in line with the recommended action plan suggested by the World Bank to improve the existing AML/CFT System, which was developed based on FATF standards. Sierra Leone was rated partially –compliant and non-compliant with respect to the under-mentioned recommendations of FATF. Therefore, in accordance with GIABA Processes and Procedures, the country is required to submit an annual update to the plenary, providing information on the actions taken or to be taken to address the factors/ deficiencies that were rated partially-compliant or non-compliant.

Partially Compliant (PC)	**Non-Compliant (NC)**
R.1: ML Offence	R.5: Customer Due Diligence
R.2: ML Offence- mental and corporate liability	R.6: Politically Exposed Persons
R.3: Confiscation and Provisional Measures	R.7: Correspondent Banking
R.10: Record Keeping	R.8: New technologies and non face-to-face business
R.20: NFBP & Secure Transaction Techniques	R.11: Unusual Transactions
R.25: Guidelines & Feedback	R.12: DNFBP-R.5,6,8-11
R.33: Legal Persons-beneficial owners	R.13: Suspicious Transaction Reporting
R.35: Conventions	R.14: Protection and no tipping-off
R.37: Dual Criminality	R.15: Internal controls, compliance & audit

	R. 17: Sanctions
	R.18: Shell Banks
	R.19: Other forms of reporting
	R.21: Special attention for higher risk countries
	R.22: Foreign branches & subsidies
	R.24: Regulation, supervision and monitoring
	R.26: The FIU
	R.27: Law enforcement authorities
	R.28: Powers of competent authorities
	R.30: Resources, integrity and training
	R.31: National co-operation
	R.32: Statistics
	R.34: Legal arrangements-beneficial owners
	R.36: Mutual Legal Assistance (MLA)
	R.38: MLA on confiscation and freezing
	R.39: Extradition
	R.40: Other forms of co-operation
	SR.1: Implement UN Instruments
	SR.II: Criminalize terrorist financing
	SR.III: Freeze and confiscate terrorist assets
	SR.IV: Suspicious transaction reporting
	SR.V: International cooperation
	SR.VI: AML requirements for money/value transfer services
	SR.VII: Wire transfer rules
	SR.VIII: Non-profit organizations
	SR.IX: Cross Border Declaration & Disclosure

II SUMMARY OF THE PROGRESS MADE BY SIERRA LEONE SINCE JUNE 2007

In June 2007, the Deputy Governor requested for Technical Assistance (TA) from the IMF in response to the recommendations of the Assessment Report of the World Bank on Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT). The TA Mission from the Legal Department of the IMF reviewed the AML Act 2005 to address its inadequacies and to also incorporate provisions for the Suppression of the Financing of Terrorism.

The draft revised Act, which is to be known as "The Anti-Money Laundering and Suppression of Financing of Terrorism Act is under discussion and is expected to be finalised and received this 2008.

The revised Act will address deficiencies identified in Recommendations 1, 2, 3, 13, 14, 17, 35, 36, 38 and Special Recommendations I to V. After Parliamentary approval AML/CFT regulations will be reviewed and disseminated to reporting entities to overcome the shortcomings identified in Recommendations 5, 6, 7, 8, 10-23.

Recommendation 15: Internal Controls, Compliance and Audit

The Financial Intelligence Unit (FIU) is at present finalising examination guidelines developed by the IMF Technical Assistance Team on AML/CFT issues relating to: -

- Bureau de Change
- Compliance Program Assessment
- Correspondent Banking
- Courier Activity
- Credit/Lending Function
- Money/Funds Transfer
- Negotiable Instruments
- Payable Through Account
- Private Banking/Trust
- Safe Deposit/Safe Keeping
- Special Use/Suspense Account

With the promulgation of the revised AML/CFT Act and the development of AML/CFT regulations, AML/CFT examinations will be enhanced to monitor internal controls and ensure compliance with regulations.

Recommendation 25: Guidelines and Feedback

STR form has been developed and issued to reporting entities with directives for them to report suspicious transactions to the Director of the Banking Supervision Department/Head of the FIU.

Recommendation 26: The FIU

An amount has been approved in the 2008 budget for the partitioning of the office space allocated for the setting up of the FIU. A project document seeking financial assistance to support the operations of the FIU has been drafted.

An operational manual of the FIU has been drafted and will be finalised.

Recommendation 30: Resources, Integrity and Training

There is an allocation in 2008 Bank of Sierra Leone annual budget for the operations of FIU. However, due to resource constraints, the amount allocated is inadequate to meet the needs of the Unit. As a result, a project document has been prepared to solicit assistance from our development partners for acquiring the requisite furniture and equipments and other logistics as well as in capacity building to complete the setting-up process of the Unit and ensure that it becomes fully operational.

GIABA in collaboration with other development partners organized a series of training programs to which the FIU staff and other relevant agencies participated. Plans are underway to also organize training courses for reporting entities and law enforcement agencies in Sierra Leone.

Special Recommendations VI and VII

When AML/CFT examination guidelines are finalized and implemented, the FIU will be able to monitor compliance by banks with AML/CFT measures and ensure the effective implementation of wire transfer rules.

Special Recommendation IX-Cross Border Declaration and Disclosure

The FIU has also developed and issued to the Customs and Excise Department, procedures for handling currencies or negotiable bearer instruments declared at entry or exit points.

III CONCLUSION

The AML/CFT regime is at present characterized by legislative inadequacies that inhibit the authorities' ability to overcome the deficiencies that were rated partially compliant and non-compliant. It is anticipated that with the completion of the legislative review process, appropriate regulations will be developed and implemented to ensure the effective implementation of the provisions of the revised AML/CFT Act and hence address the underlying weaknesses.

FORTY RECOMMENDATIONS	RATING	SUMMARY OF FACTORS UNDERLYING RATINGS	WHETHER IDENTIFIED DEFICIENCY HAS BEEN RESOLVED	DESCRIPTION OF ACTIONS TAKEN OR BEING TAKEN TO RESOLVE DEFICIENCY
Legal Systems 1. ML Offence	PC	1. Significant flaws in the wording of offence and its related definitions	NO	The AML Act 2005 is currently being reviewed with technical assistance from the IMF. When completed and enacted, the reviewed Act will address deficiencies in the wording and definition of offence.
		2. No consideration of applying the offence of ML	NO	This would be done after the amendments of the AML Act 2005.
		3. The effectiveness of criminalization has not been tested before the court.	NO	The provisions of the AML Act 2005 are inadequately to ensure the effective criminalization of ML offences. However, these inadequacies will be addressed when the revised Act is enacted.
2. ML offence – mental element and corporate liability	PC	The prescribed sanctions are not proportionate and dissuasive.	NO	The AML/CFT Act under review will incorporate more stringent sanctions.
3. Confiscation and provisional measures.	PC	1. There is no provision for confiscating instrumentalities used in commission of a predicate offence or offences related to FT.	NO	1. The AML/CFT Act under review will address the deficiency.
		2. There have been no ML or FT related cases to determine how effective and efficient the system is.	NO	2. Few suspected cases of Money Laundering have so far been reported by commercial banks. From the results of the investigation relating to one STR, the account of the customer was frozen but funds later released due to legislative inadequacy in terms of the relatively short period of the freezing order as well as insufficient grounds for prosecution. Other reported cases were also not prosecuted due to insufficient grounds for prosecution.

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5. Customer Due Diligence	NC	1. There are no rules concerning CDD measures for existing customers. 2. There is ineffective implementation of certain MLR requirements including those with respect to ID of beneficial owners and controllers. 3. There is ineffective implementation of MLR requirements by FOREX dealers.	NO	1. This will be addressed in the revised AML/CFT Act and AML/CFT Regulations.
6. Politically Exposed Persons	NC	1. There are no specific provisions regarding appropriate risk management systems to address PEPs. 2. There is no effective implementation of MLR requirements, including PEPs.		2. New requirements will be introduced following the enactment of the revised AML/CFT Act.
7. Correspondent Banking	NC	1. There are no rules concerning documenting CDD by correspondent banks.	NO	1. The issues concerning cross-border correspondent banking relationships will be introduced when implementing the provisions of the revised AML/CFT Act and the AML/CFT examination guidelines.
		2. There are no rules concerning payable through accounts	NO	2. New requirement will be introduced and monitored through the implementation of examination guidelines on payable through accounts.
8. New technologies non-face-to-face business	NC	1. There are no rules regarding policies on the specific risk raced by non-face-to-face transactions.	NO	1. Regulations will be introduced to address specific risks associated with non-face-to-face transactions.

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		2. There are no risks regarding policies on the misuse of technological developments in ML or non-face-to-face IT schemes.	NO	2. Regulations will be introduced to address this deficiency.
10. Record keeping	PC	There is no effective implementation of MLR requirements beyond basic customer ID records nor implementation of any requirements by foreign exchange dealers.	NO	Regulations will be developed when the revised Act is enacted and will be reinforced through the implementation of AML/CFT examination guidelines.
11. Unusual transactions	NC	1. There is no effective implementation of most of the MLR requirements.	NO	1. AML examination will be conducted to ensure compliance with regulations.
		2. Supervision of compliance does not extend to foreign exchange dealers	NO	2. Regulations will be developed and examination of foreign exchange bureau will be revised to incorporate AML/CFT issues.
12. DNFBP – R5, 6, 8 – 11	NC	1. There are serious gaps in the rules with respect to CDD.	NO	1. Regulations on CDD with respect to DNFBPs will be developed and implemented. Sensitization seminar was conducted for financial institutions and DNFBPs.
		2. There has been no implementation of the AML Act.		
13. Suspicious transaction reporting	NC	1. There is no provision for reporting of suspicious FT transactions in the AML Act.	NO	1. This deficiency will be addressed when the revised AML/CFT is enacted.
		2. There is no effective implementation of many key MLR.	NO	2. This will be monitored through the implementation of examination guidelines in AML/CFT Act.
		3. There is no effective implementation of MLR requirements by FOREX dealers.	NO	3. Examination of foreign exchange bureaux will be revised to incorporate AML/CFT issues.

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14. Protection and no tipping-off	NC	1. Only good faith reporting of an STR under AML Act. Section 6(4) is protected against criminal and civil liability. 2. There is no tipping off provision in relation to reports made pursuant to AML Act, Section 14(6).	NO	This deficiency will be addressed in the revised AML/CFT Act.
15. Internal controls, compliance and audit.	NC	There is no effective implementation of requirements of the AML Act and the MLR.	NO	AML/CFT examination will be conducted to ensure compliance with AML Act and the MLR.
16. DNFBP – R13 – 15 & 21	NC	There has been no implementation of the AML Act by DNFBPs.	NO	Regulations governing DNFBPs will be developed and implemented to address the underlying deficiencies. The BSL organized a sensitization seminar on AML issues and DNFBPs were invited to participate.
17. Sanctions	NC	There is no comprehensive system of sanctions application for failure to comply with AML/CFT rules.	NO	The issue of sanctions will be addressed in the revised Act and regulations will be developed to enforce sanctions and ensure compliance with AML/CFT rules.
18. Shell banks	NC	1. There are no rules with respect to correspondent banking with shell banks and use of shell banks. 2. There is no effective implementation of requirements of the AML Act and the MLR.	NO NO	Regulations will be revised to address the issue of shell banks and their implementation monitored through AML/CFT examination guidelines.
19. Other forms of reporting	NC	Officials have not considered feasibility of reporting all transactions in currency above a fixed threshold.	NO	This will be incorporated in the AML regulations.

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20. Other NFBP and secure transactions techniques.	PC	1. No assessment on the need to extend AML/CFT requirements to non-financial businesses and professions other than those listed in the FATF standards.	NO	
		2. Efforts have been made to reduce the reliance upon cash for transactions.	NO	Public awareness campaigns will be conducted and the implementation of strategies prescribed in the Financial Sector Reform Strategy Paper will lead to the introduction of financial instruments to reduce cash transactions.
21. Special attention for higher risk countries	NC	1. There are no effective measures in place to ensure that Financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries.		Sensitization seminars on AML/CFT issues are ongoing.
		2. There is no effective implementation of MLR requirements.	NO	
22. Foreign branches and subsidiaries	NC	1. There are no rules with respect to communication with home country supervisor or compliance with CDD measures at the group level.	NO	
		2. There is no effective implementation of requirements of the AML Act and the MLR	NO	
23. Regulation, supervision and monitoring		Only aspects of AML contained in the Examination Manual are subject to examination and supervision.	NO	The Financial Intelligence Unit (FIU) is finalizing guidelines to strengthen AML/CFT examinations.

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24. DNFBP – regulation and monitoring		1. Licensing requirement and supervision of casinos do not relate to any gaming or financial transactions performed by them.	NO	The National Tourist Board is responsible for licensing casinos. Capacity needs to be developed and licensing requirements will be strengthen to incorporate gaming or financial transactions performed by them.
		2. There are no effective measures to prevent ownership, control or operation of the casino by criminals.	NO	
25. Guidelines and feedback	PC	• There is no STR form	YES	STR form has been designed and disseminated to reporting. Entities with directives for them to report suspicious transactions.
		• There is no formal feedback process for either financial institutions or DNFBPs.		
		• There is currently no AM.CFT guidelines for DNFBPs.	NO	• Guidelines will be draw up and implemented when the revised AML/CFT Act is enacted.
26. The FIU	NC	• The FIU has not been set up.	YES	• The FIU has been set-up with powers to receive, analyze and disseminate information relating to ML. Efforts are being made to solicit funds to make it fully operational.
		• The AMLD which is expected to become the formal FIU is not currently performing the functions of an FIU.		
27. Law enforcement authorities	NC	• There is no law enforcement agency which has full investigative powers and has been assigned responsibility to investigate ML and TF cases.	NO	Because the SLP are charged with the responsibility to investigate all criminal cases, they have the powers to investigate ML cases.
		• No ML investigators have been conducted to date.		• Two suspected cases of ML have been investigated by the SLP.

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28. Powers of competent authorities	NC	There is no evidence to demonstrate the effective implementation and use of the investigative powers of the AML Act.	NO	
30. Resources, integrity and training	NC	FIU – current resources are insufficient.	NO	Agreed. However, the FIU has a budget of its own as part of the Bank of Sierra Leone's annual budget. Again, the FIU has developed a project to solicit assistance from development partners to ensure that the Unit becomes fully operational.
		Law Enforcement – There are significant resources and capacity constraints which limit the relevant agencies capabilities to effectively conduct investigations into ML and TF.		The BSL will be conducting training course on AML/CFT issues for reporting entities and law enforcement agencies. Issues relating to investigations into ML and TF offences will be covered. Assistance will also be sought to enhance capacity of the LEA to undertake ML and TD investigations.
		Supervisors – The BSL needs additional AML/CFT training.		Assistance will be sought from development partners to enhance the capacity of staff.
31. National co-operation	NC	• No agency has been mandated to coordinate the government's AML/CFT policies and international relations.	YES	Following the enactment of the AML Act 2005, the Stakeholders Committee on Money Laundering was formed to ensure the effective implementation of the provisions of the Act. The Governor of the BSL chairs the committee.
		• The mechanism for domestic co-operating and co-ordination has not been effective. The level of consultation among the critical AML//CFT relevant bodies has been minimal.	YES	The Director of Banking Supervision Department/Head of the Financial Intelligence Unit is responsible for the coordination of the implementation of the AML Act 2005. the level of consultation among stakeholders has improved significantly.

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32. Statistics		FIU • Current resources are insufficient.		Again, the FIU has developed a project to solicit assistance from development partners to ensure that the Unit becomes fully operational.
		Law Enforcement • The absence of ML or TF investigation means the collection of statistics has not been conducted.		Two suspected cases of ML have been investigated. With the enactment of the revised AML/CFT Act and the completion of the operational set-up of the FIU, a database will be developed for all reported and investigated cases of ML or TF.
		• There is no system to maintain statistics on investigations and prosecutions of ML and TF, or of the use of powers under AML Act with regard to asset recovery.		
		• MLA and Extradition – There are no statistics available.		
33. Legal persons – beneficial owners	PC	• There is no enforcement mechanism to compel companies to submit annual returns in a timely manner.	YES	The draft Companies Act provides such powers.
		• Because the information is recorded manually, the accuracy and reliability is doubtful.	NO	
34. Legal arrangements beneficial owners	NC	There is no transparency mechanism in place.		Rules and practices will be adopted to enhance the transparency of trusts.

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35. Conventions	PC	• Palermo convention has not been ratified.	NO	
		• Not all provisions under the Palermo convention have been provided for in domestic law.	NO	
		• Provisions related to instrumentalities of crime have not been documented.	NO	• Provisions relating to freezing, seizure and confiscation will be incorporated in the revised AML.CFT Act.
		• Has signed but not ratified regional conventions	NO	
36. Mutual legal assistance (MLA)	NC	• The process for effecting MLA is not effective.	NO	
		• There is no provision to provide MLA for FT purposes.	NO	
37. Dual criminality	PC	• MLA in relation to ML has never been tested.	NO	
		• Dual criminality is required for extradition purposes but no provision to prosecute national if not extradited.	NO	
38. MLA confiscation and freezing	NC	• There is no provision for the seizure of instrumentalities of crime.	NO	This deficiency is being addressed in the revised Act.
		• There is no provision for FT.	NO	This deficiency is being addressed in the revised Act.

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		• There has been no consideration of establishing an asset forfeiture fund.	NO	This deficiency is being addressed in the revised Act.
39. Extradition	NC	• There is no provision to prosecute nationals who are not extradited.	NO	
		• The process is not effective and efficient.	NO	
40. Other forms of co-operation	NC	There is minimal agency to agency co-operation.	NO	

NINE SPECIAL RECOMMENDATIONS	RATING	SUMMARY OF FACTORS UNDERLYING RATINGS	WHETHER IDENTIFIED DEFICIENCY HAS BEEN RESOLVED	DESCRIPTION OF ACTIONS TAKEN OR BEING TAKEN TO RESOLVE DEFICIENCY
SR.I Implement UN instruments	NC	The SFT Conventions and UN Special Resolutions have not been implemented.	NO	
SR.II Criminalize Terrorist financing	NC	FT has not been criminalized.	NO	TF will be criminalized in the revised AML/CFT Act.
SR.III Freeze and Confiscate terrorist assets	NC	• No legislative, regulatory or institutional action has been taken • There are no processes for dealing with all matters related to 1267 and 1373.	NO	Provisions for freezing and confiscation of terrorist assets are incorporated in the revised AML/CFT Act.
SR.IV Suspicious transaction reporting	NC	• There are no guidelines for implementation of TF requirements.	NO	Regulations will be developed following the enactment of the revised Act to forward STRs relating to TF.
SR.V International Co-operation	NC	• There is no provision for FT. • FT is not an extraditable offence. • No agency co-operation with regard to FT matters.	NO	The weaknesses will be addressed when the revised ACT is enacted.
SR.VI AML requirements for money/value transfer services	NC	• The supervision, examination and monitoring of compliance by banks with AML/CFT measures is incomplete.	NO	AML/CFT examination guidelines will be finalized and implemented.
SR.VII Wire transfer rules	NC	• There is no effective implementation of wire transfer rules.	NO	This will be addressed when AML.CFT examination guidelines are finalized and implemented.
SR.VIII Non-profit Organizations	NC	• There is no legal framework for the supervision of NPOs. • The sanctions are not dissuasive and proportionate.		The NGO Unit at the Ministry of Finance, Development and Economic Planning regulates the activities of NGOs.

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SR.IX Cross Border Declaration & Disclosure	NC	• The requirement to report cross border transportation of currency and bearer negotiable securities, pursuant to Section 20 of the AML Act has not been implemented.	YES	The Currency Declaration Form (CDF) has been designed and is being implemented by the Customs and Excise Department of the National Revenue Authority (NRA). The FIU has developed and issued to the Customers and Excise Department of the NRA, procedures for handling currency or negotiable bearer instruments declared at entry or exist points.