INTER-GOVERNMENTAL ACTION GROUP AGAINST
MONEY LAUNDERING IN WEST AFRICA

Third Follow Up Report

Mutual Evaluation



SIERRA LEONE

MAY 2010

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I. INTRODUCTION

1. This is Sierra Leone's third mutual evaluation follow-up report. The second follow-up report was presented and discussed at the Plenary meeting held in Bamako, Mali in May 2009.

2. The country has made progress in ensuring that the issues rated partially-compliant or non-compliant are addressed.

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: DNFBPs & Secure Transaction Techniques	R.11: Unusual Transactions
R.25: Guidelines & Feedback	R.12: DNFBPs-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 & subsidiaries
	R.24: Regulation, supervision and monitoring
	R.26: The FIU

Partially Compliant (PC)	Non-Compliant (NC)
	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 MAY 2009

(A) **AML/CFT Bill**

3. The Anti-Money Laundering Act 2005 has been revised to take into account the weaknesses highlighted in the Financial Sector Assessment Programme (FSAP) report. The key strengths of the draft AML/CFT Bill include, among other things, the criminalization of money laundering and terrorism financing, extension of the powers for freezing order from 72 hours to ten (10) working days, strengthening the powers and functions of the Financial Intelligence Unit (FIU), provision of proportionate and dissuasive sanctions for non-compliance with provisions of the Act.

4. On 21st May, 2009, a national seminar was organised by the Bank of Sierra Leone to discuss the draft AML/CFT Bill. The seminar was facilitated by experts from the World Bank, UNODC, GIABA and the Legal Officer of the Bank of Sierra Leone. The participants were drawn from members of the Technical Committee on AML/CFT issues, Parliamentarians, Judges, Private Sector, Embassies, University of Sierra Leone and financial institutions.

5. On 30th September, 2009 the draft AML/CFT Bill was also discussed with the Parliamentarians at a training workshop organized by the Bank of Sierra Leone in collaboration with the World Bank and United Nations Office on Drugs and Crime (UNODC). The one-day training was aimed at enhancing the understanding of Parliamentarians on AML/CFT issues to facilitate enactment when the draft Bill is tabled in Parliament. The Bill has been forwarded to the Ministry of Finance and Economic Development and had been discussed in cabinet.

(B) NATIONAL STRATEGY ON AML/CFT

6. A National Strategy on AML/CFT issues, which provides a 5-year framework or road map to fight against money laundering and terrorism financing offences was developed and approved by Cabinet.

7. The five year strategic plan is aimed at achieving maximum political will, implementing a comprehensive AML/CFT legislation and regulations, empowering a successful fight against money laundering and terrorism financing through effective enforcement and resources to enhance international cooperation and build strategic partnerships.

(C) GUIDELINES ON THE PREVENTION OF MONEY LAUNDERING & FINANCING OF TERRORISM

8. In line with the Guidelines on the Prevention of Money Laundering and Financing of Terrorism issues, commercial banks are now reporting to the FIU all currency transactions in excess of twenty five million Leones (Le 25,000,000) for natural persons and one hundred million Leones (Le100,000,000) for legal entities. Through on-site examinations, staff of the FIU monitor compliance with provisions of the regulations and Anti-Money Laundering Act. Follow-up examinations are conducted on the currency transactions deemed to be suspicious. This process is meant to ascertain the nature and purpose of these transactions and determine whether there are sufficient grounds for suspicion.

(D) Guidelines on AML/CFT for other Financial Institutions are being developed by the Banking Supervision Department. It is expected that when these guidelines are finalised and issued to other Financial Institutions they will enhance their compliance with AML/CFT regulations.

(E) The Bank of Sierra Leone is currently reviewing the Bank of Sierra Leone Act 2000, Banking Act 2000, Banking Regulations 2003, Other Financial Institutions Act 2001 to ensure consistency with International best practices and to strengthen the supervisory framework for financial institutions. This by extension will greatly promote the fight against money laundering and terrorism financing.

(F) The Bank of Sierra Leone is currently developing a Financial Sector Development Plan (FSDP) aimed at enhancing the efficiency and effectiveness of the financial sector in promoting growth. The over-riding priorities of the plan are to strengthen the commercial banking system and improve its competitiveness, enhance rural financial access through microfinance institutions and community banks, and strengthen the enabling environment through the legislative, regulatory and policy infrastructure. The Plan which has been approved by the Government of Sierra Leone is supported by the World Bank, German Technical Cooperation (GTZ) and other development partners.

III. CONCLUSION

9. The draft AML/CFT Bill has provided proportionate and dissuasive sanctions for non-compliance with its provisions. The enactment of the Bill will address a lot of the weaknesses raised in the Mutual Evaluation Report.

10. The other developments in the financial system will contribute to the strengthening of the country's AML/CFT regime.

11. The attached matrix summarizes the actions taken to ensure compliance with the recommendations.

FATF 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**	It has been resolved in the AML/CFT Bill.
		2. No consideration of applying the offence of ML	**NO**	It will be resolved when the Bill is enacted.
		3. The effectiveness of criminalization has not been tested before the court.	**NO**	The AML/CFT Bill provides the legal framework to effectively criminalize money laundering offences which will be tested when enacted.
2. ML offence – mental element and corporate liability	**PC**	The prescribed sanctions are not proportionate and dissuasive.	**NO**	The AML/CFT Bill has incorporated more stringent sanctions to deal with money laundering and related offences.
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 Bill has incorporated provisions to address this weakness.
		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. These cases may not have been effectively prosecuted due partly to legislative inadequacies. However, the AML/CFT Bill has provided a robust legal framework to effectively prosecute money laundering and terrorism financing offences.

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5. Customer Due Diligence	**NC**	1. There are no rules concerning CDD measures for existing customers.	**YES**	1. The guidelines on the prevention of money laundering & terrorist financing have addressed requirements for CDD measures for various categories of customers.
		2. There is ineffective implementation of certain MLR requirements including those with respect to ID of beneficial owners and controllers.	**YES**	2. These requirements have been addressed in the guidelines and their implementation is being monitored by the FIU through on-site examinations.
		3. There is ineffective implementation of MLR requirements by FOREX dealers.	**NO**	3. The FIU is currently developing AML/CFT guidelines for other financial institutions and DNFBPs, and compliance will be monitored through on-site examinations.
6. Politically Exposed Persons	**NC**	1. There are no specific provisions regarding appropriate risk management systems to address PEPs.	**YES**	1. The guidelines require commercial banks to implement risk assessment of customers including PEPs. These provisions have been encapsulated in the AML/CFT Bill.
		2. There is no effective implementation of ML requirements, including PEPs.	**YES**	2. Risk assessment of customers is being monitored through on-site AML/CFT examinations of commercial banks.
7. Correspondent Banking	**NC**	1. There are no rules concerning documenting CDD by correspondent banks.	**YES**	1. The issues concerning cross-border correspondent banking relationships are addressed in the guidelines and monitored through on-site examinations.
		2. There are no rules concerning payable through accounts	**YES**	2. These rules are addressed in the guidelines and monitored through on-site examinations.

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8. New technologies non-face-to-face business	**NC**	1. There are no rules regarding policies on the specific risk faced by non-face-to-face transactions.	**YES**	1. The requirements to address specific risks associated with non-face-to-face transactions are addressed in the guidelines.
		2. There are no risks regarding policies on the misuse of technological developments in ML or non-face-to-face IT schemes.	**YES**	2. Policies associated with the misuse of technological developments on ML or non-face-to-face IT schemes are addressed in the guidelines.
10. Record keeping	**PC**	There is no effective implementation of ML requirements beyond basic customer ID records nor implementation of any requirements by foreign exchange dealers.	**NO**	The AML/CFT Bill specifies record keeping requirements for all reporting entities. However, AML/CFT guidelines are being developed for Foreign Exchange Dealers and a workshop will be organized to discuss them before issue.
11. Unusual transactions	**NC**	1. There is no effective implementation of most of the ML requirements.	**NO**	The AML/CFT Bill 2009 requires all reporting entities to forward suspicious transaction reports to the FIU. Coverage of reporting has been extended to include other entities including DNFBPs.
		2. Supervision of compliance does not extend to foreign exchange dealers	**NO**	AML/CFT guidelines are being developed to address this weakness and a workshop will be organized to discuss them before issue. Compliance will be monitored through on-site examinations.
12. DNFBPs – R5, 6, 8 – 11	**NC**	1. There are serious gaps in the rules with respect to customer Due Diligence. 2. There has been no implementation of the AML Act.	**NO**	AML/CFT guidelines had been developed to address this weakness and a workshop will be organized to discuss them before issue.

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13. Suspicious transaction reporting	**NC**	1. There is no provision for reporting of suspicious FT transactions in the AML Act.	**NO**	1. This weakness is addressed in the AML/CFT Bill.
		2. There is no effective implementation of many key MLR.	**YES**	2. MLR are monitored through on-site examinations conducted by staff of the FIU.
		3. There is no effective implementation of MLR requirements by FOREX dealers.	**NO**	AML/CFT guidelines are being developed to address this weakness and a workshop will be organized to discuss them before issue.
14. Protection for STR reporting/ tipping-off	**NC**	1. Only good faith reporting of a STR under AML Act. Section 6(4) is protected against criminal and civil liability.	**NO**	This deficiency is addressed in the AML/CFT Bill.
		2. There is no tipping off provision in relation to reports made pursuant to AML Act, Section 14(6).	**NO**	This deficiency is addressed in the AML/CFT Bill.
15. Internal controls, compliance and audit.	**NC**	There is no effective implementation of requirements of the AML Act and the MLR.	**YES**	Commercial banks have appointed Money Laundering Compliance Officers (MLRO) in line with the provisions of the guidelines to ensure the effective implementation of the AML Act and MLR.
16. DNFBP – R13 – 15 & 21	**NC**	There has been no implementation of the AML Act by DNFBPs.	**NO**	AML/CFT guidelines are being developed to address this weakness and a workshop will be organized to discuss them before issue.
			NO	

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17. Sanctions	**NC**	There is no comprehensive system of sanctions application for failure to comply with AML/CFT rules.		The AML/CFT Bill provides proportionate and dissuasive sanctions for failure to comply 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.	**YES**	The AML/CFT Bill addresses these weaknesses. The guidelines have also addressed the issue of shell banks and correspondent banking relationships and their implementation is monitored through on-site AML/CFT examinations.
		2. There is no effective implementation of requirements of the AML Act and the MLR.	**YES**	AML/CFT examination of commercial banks ensures the effective implementation of the requirements of the AML and regulations.
19. Currency Transaction Reports	**NC**	Officials have not considered feasibility of reporting all transactions in currency above a fixed threshold.	**YES**	The guidelines require commercial banks to report currency transactions in excess of Le25 million for natural persons and Le100 million in the case of legal persons.
20. Other DNFBP 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**	The AML/CFT Bill will address this weakness.
		2. Efforts have not been made to reduce the reliance upon cash for transactions.	**NO**	A comprehensive Financial Sector Development Plan is being developed which will lead to the introduction of financial instruments to reduce cash transactions. The national AML/CFT strategy has been approved by Cabinet, which incorporates measures to reduce the size of the informal sector. Modernization of the payment system is ongoing which will facilitate transactions on real time basis

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				and reduce the use of cash. Public awareness campaigns are ongoing.
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.	**YES**	The guidelines requires commercial banks to perform enhanced due diligence for higher risk categories of customers including those from higher risk countries. Training programmes and sensitization campaigns are ongoing.
		2. There is no effective implementation of ML requirements.	**YES**	Risk assessment of the various categories of customers is monitored through AML/CFT on-site examinations.
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**	Memoranda of Understanding signed with the Central Bank of Nigeria and WAMZ member countries to facilitate cooperation.
		2. There is no effective implementation of requirements of the AML Act and the MLR	**NO**	Will be addressed when the AML/CFT Bill is enacted
23. Regulation, supervision and monitoring		Only aspects of AML contained in the Examination Manual are subject to examination and supervision.	**YES**	The Financial Intelligence Unit has finalized AML/CFT examination guidelines and commenced on-site examinations to ensure compliance with the provisions of the Act and the guidelines.
24. DNFBPs – regulation, supervision 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 strengthened to

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				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**	Will be addressed
25. Establishing guidelines and providing feedback	**PC**	• There is no STR form	**YES**	STR form has been designed and disseminated to commercial banks with directives for them to report suspicious transactions. The AML/CFT Bill provides for extension of reporting coverage to include other financial institutions and DNFBPs.
		• There is no formal feedback process for either financial institutions or DNFBPs.	**YES**	The AML/CFT guidelines provide for feedback mechanisms in respect of suspicious transaction reports received from commercial banks.
		• There is currently no AML/CFT guidelines for DNFBPs.	**NO**	AML/CFT guidelines for DNFBPs are being developed to address this weakness and a workshop will be organized to discuss them before issue.
26.FIU Establishment /powers	**NC**	• The FIU has not been set up. • The AMLD which is expected to become the formal FIU is not currently performing the functions of an FIU.	**YES**	The FIU has been set-up with powers to receive, analyze and disseminape information relating to ML. The powers of the FIU have been expanded in the AML/CFT Bill. Efforts are being made to make it fully operational. However, the FIU has not been allocated a secured office space to facilitate its operations.

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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.	**YES**	Because the SLP are charged with the responsibility to investigate all criminal cases, they have the powers to investigate ML cases.
		• No ML investigations have been conducted to date.		Few suspected cases of ML have been investigated by the SLP.
28. Document production, search and seizure powers.	**NC**	There is no evidence to demonstrate the effective implementation and use of the investigative powers of the AML Act.	**NO**	The AML/CFT Bill will ensure effective implementation and use of the investigative powers.
30. Resources for competent authorities	**NC**	FIU – current resources are insufficient.	**NO**	Agreed. The FIU has not got an independent budget to finance its activities. The Unit relies on the resources provided by the Bank of Sierra Leone for payment of staff salaries, provision of furniture and equipment and training of staff. However, the AML/CFT Bill 2009 provides for an autonomous FIU
		Law Enforcement – There are significant resources and capacity constraints which limit the relevant agencies capabilities to effectively conduct investigations into ML and TF issues. Supervisors – The BSL needs additional AML/CFT training.	**NO**	Capacity and resources needs will be addressed in due course. Agreed. Capacity building is ongoing.

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31. National (Domestic) co-operation	**NC**	• No agency has been mandated to coordinate the government's AML/CFT policies and international relations.	**YES**	The Inter-Ministerial Committee has been established to oversee the implementation of AML/CFT requirements. A Technical Committee has also been established to discuss technical issues and seek approval from the Inter-Ministerial Committee for its decisions. This structure ensures the effective coordination and partnership among domestic as well as International agencies.
		• The mechanism for domestic co-operation 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. The technical committee comprises key stakeholders which makes cooperation and coordination easier
32. Maintenance of Statistics		**FIU** • Current resources are insufficient.	**NO**	In the medium term strategic plan of the Bank of Sierra Leone, the FIU with assistance from development partners should become fully operational.
		Law Enforcement • The absence of ML or TF investigation means the collection of statistics has not been conducted.	**NO**	The FIU is developing a database for all CTRs/STRs reported and investigated and currency transactions above the prescribed threshold. A comprehensive and effective database will be developed when the

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				FIU is allocated a secured office space and IT infrastructure enhanced.
		• 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.	**NO**	A comprehensive and effective database will be developed when the FIU is allocated a secured office space and IT infrastructure enhanced.
		• MLA and Extradition – There are no statistics available.	**NO**	The AML/CFT Bill addresses issues of extradition.
33. Use of Legal persons; beneficial ownership	**PC**	• There is no enforcement mechanism to compel companies to submit annual returns in a timely manner.	**YES**	The Companies Act provides such powers.
35.International Conventions	**PC**	• Palermo convention has not been ratified.	**NO**	The FIU is liaising with the Ministry of Foreign Affairs to ensure the ratification of all conventions/protocols signed by Sierra Leone which relates to the combating of ML and TF.
		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**	
		• Has signed but not ratified regional conventions	**NO**	

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36. Mutual Legal Assistance (MLA)	**NC**	• The process for effecting MLA is not effective.	**NO**	MLA will become effective when the draft AML/CFT Bill is enacted
		There is no provision to provide MLA for FT purposes.	**NO**	The AML/CFT Bill provides the legal framework for MLA in respect of the financing of terrorism.
37. MLA without Dual criminality	**PC**	• MLA in relation to ML has never been tested.	**NO**	Addressed in the AML/CFT Bill.
38. MLA on confiscation, freezing and Seizing	**NC**	There is no provision for the seizure of instrumentalities of crime.	**NO**	Addressed in the AML/CFT Bill.
		• There is no provision for FT.	**NO**	This weakness has been addressed in the AML/CFT Bill.
		• There has been no consideration of establishing an asset forfeiture fund.	**NO**	The AML/CFT Bill provides for the establishment of an asset forfeiture fund.
39. Extradition	**NC**	• There is no provision to prosecute nationals who are not extradited.	**NO**	The AML/CFT Bill provides for the granting of extradition for money laundering and terrorism financing offences

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 Ratify and Implement UN instruments	**NC**	The CFT Conventions and UN Special Resolutions have not been implemented.	**NO**	The FIU have forwarded to the Ministry of Foreign Affairs status of all conventions and requested for the ratification of all conventions relating to ML/TF.
SR.II Criminalize Terrorist Financing	**NC**	FT has not been criminalized.	**NO**	The AML/CFT Bill criminalizes both money laundering and terrorist financing offences.
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** **NO**	The AML/CFT Bill has incorporated provisions for freezing and confiscation of terrorist assets. The FIU will be working with the World Bank and UNODC to develop procedures for dealing with matters relating to 1267 and 1373.
SR.IV Suspicious transaction reporting relating to terrorism	**NC**	• There are no guidelines for implementation of TF requirements.	**YES**	The AML/CFT guidelines require commercial banks to report to the FIU suspicious transactions relating to both money laundering and terrorist financing.
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** **YES**	These issues are addressed in the AML/CFT Bill . The Inter-Ministerial Committee oversee issues relating to both money laundered and the financing of terrorism.
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.	**YES**	The AML/CFT guidelines have specific rules to deal with both domestic and cross-border wire transfers.

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SR.VII Wire transfer rules	**NC**	• There is no effective implementation of wire transfer rules.	**YES**	The AML/CFT examination guidelines have been developed and staff of the FIU have commenced on-site examination of commercial banks whose services include wire transfers.
SR.VIII Non-profit Organizations	**NC**	• There is no legal framework for the supervision of NPOs. • The sanctions are not dissuasive and proportionate.	**YES**	The NGO Unit at the Ministry of Finance, Development and Economic Planning regulates the activities of NGOs.
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.	**NO**	The Currency Declaration Form (CDF) has been designed and it is to be 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.