Anti-money laundering and counter-terrorist financing measures

Togo

3rd 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 State's financial systems 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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This assessment was adopted by GIABA at its May 2025 Plenary meeting.

Citing reference:

GIABA (2025), *Anti-money laundering and counter-terrorist financing measures – Togo, Third Enhanced Follow-Up Report and Technical Compliance Re-Rating, GIABA, Dakar*

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Togo's 3rd Enhanced Follow-up Report

I. INTRODUCTION

1. Togo's Mutual Evaluation Report (MER) was discussed and adopted by the 37th Technical Commission/Plenary meeting of the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA) held in May 2022. The country obtained 11 weak results with regard to the effectiveness of its AML/CFT system and twenty-four (24) Recommendations rated Non Compliant (NC)/Partially Compliant (PC). Thus, in application of GIABA Processes and Procedures for the second round mutual evaluation (August 2020), Togo has been placed under the reinforced monitoring regime.

2. This report does not analyse the progress Togo has made to improve the effectiveness of its Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) system.

3. The assessment of Togo's request for TC re-rating and the preparation of the report were undertaken by Ms. Yeri Miraille Stéphanie Hien and supported by Mrs. Gina Wood, both of the GIABA Secretariat.

4. Section III of this report summarises Togo's progress to improve TC. Section IV sets out the conclusion and a table illustrating Togo's MER ratings and updated ratings based on this FUR.

II. FINDINGS OF THE MUTUAL EVALUATION REPORT

5. Togo's MER ratings are as follows:

Table 1: Togo's Technical Compliance Ratings, May 2022

R.	Rating
1.	PC (MER 2022)
2.	PC (MER 2022)
3.	C (MER 2022)
4.	LC (MER 2022)
5.	PC (MER 2022)
6.	PC (MER 2022)
7.	PC (MER 2022)
8.	PC (MER 2022)
9.	C (MER 2022)
10.	PC (MER 2022)
11.	LC (MER 2022)
12.	PC (MER 2022)
13.	LC (MER 2022)
14.	PC (MER 2022)
15.	NC (MER 2022)
16.	PC (MER 2022)
17.	LC (MER 2022)
18.	LC (MER 2022)
19.	NC (MER 2022)
20.	PC (MER 2022)

R.	Rating
21.	C (MER 2022)
22.	PC (MER 2022)
23.	PC (MER 2022)
24.	PC (MER 2022)
25.	PC (MER 2022)
26.	PC (MER 2022)
27.	C (MER 2022)
28.	PC (MER 2022)
29.	PC (MER 2022)
30.	C (MER 2022)
31.	C (MER 2022)
32.	PC (MER 2022)
33.	PC (MER 2022)
34.	PC (MER 2022)
35.	PC (MER 2022)
36.	LC (MER 2022)
37.	LC (MER 2022)
38.	LC (MER 2022)
39.	LC (MER 2022)
40.	LC (MER 2022)

6. Given the MER results, Togo was placed on Enhanced Follow-Up.

III. OVERVIEW OF PROGRESS MADE IN IMPROVING TECHNICAL COMPLIANCE

7. In keeping with the GIABA Mutual Evaluation Process and Procedures, this FUR considers progress made up until 22 November, 2024. In line with the current GIABA ME Procedures and the FATF Methodology for assessing technical compliance with the FATF Recommendations and the effectiveness of AML/CFT systems, the review team's analysis has considered progress to address the deficiencies identified in the MER and the entirety (all criteria) of the Recommendation under review, noting that this is not detailed where the legal, institutional or operational framework is unchanged since the MER and there have been no changes to the FATF Standards or their interpretation.

8. This section summarises the progress made by Togo to improve its technical compliance by addressing the technical compliance deficiencies identified in the MER.

3.1. Progress to address technical compliance deficiencies identified in the MER/FUR

9. Togo has made progress to address the technical compliance deficiencies identified in the MER in relation to Recommendation 34. Because of this progress, Togo has been re-rated on this Recommendation.

Recommendation 34 (initially rated PC)

10. The 2nd MER rated Togo PC on R.34. The shortcomings were that unlike most of the Designated Non-Financial Businesses and Professions (DNFBPs), the country did not issue guidelines to Financial Institutions (FIs), which constituted the most important sector in Togo's AML/CFT regime. Although certain FI authorities (Banking, Management and Intermediation Companies, and Insurance) had directives or regulations, these were essentially only intended to specify how to apply the AML/CFT Law.

11. **Criterion 34.1 [Mostly Met]** As noted in the MER, competent authorities, supervisory authorities and self-regulatory bodies are required to issue Directives, guidelines or recommendations to help FIs and DNFBPs comply with their AML/CFT obligations (Art. 86(2) and (3), AML/CFT Law 2018-004). The regulatory and/or supervisory authorities for FIs, including banks, decentralised financial systems (DFS), (Banque Centrale des États de l'Afrique de l'Ouest (BCEAO)), capital market operators (Autorité des Marchés Financiers de l'Union Monétaire Ouest Africaine (AMF-UMOA)), the insurance sector (Inter-African Conference on Insurance Markets (CIMA)) and manual foreign exchange dealers (the Ministry of the Economy and Finance, in collaboration with the financial intelligence unit (FIU)) have drawn up guidelines for their supervised entities. These guidelines assist FIs in the implementation of national AML/CFT measures, including the implementation of Targeted Financial Sanctions (TFS) against terrorism and its financing (Recommendation 6) and the proliferation of weapons of mass destruction (Recommendation 7).

12. For DNFBPs in general, the supervisory authorities have published guidelines for notaries, lawyers, bailiffs, casinos & gaming establishments to assist these DNFBPs in applying national AML/CFT measures. Real estate agents, trust and company service providers (TCSPs) and dealers in precious metals and stones (DPMS) have not received any specific guidelines, except for those on suspicious transaction reports (STRs) and a practical guide to the application of Targeted Financial Sanctions (TFS).

13. The Financial Intelligence Unit (FIU) is required to provide feedback on STRs to reporting entities and supervisory authorities (Art. 92, AML/CFT Law). Togo provided reports on capacity-building workshop for FIs; minutes of online meetings with FIs (Professional Association of bankers and Financial Institutions (ABEF), DFS and insurance companies); minutes of the FIU-Togo meeting with compliance officers from Togo's banks and other FIs to demonstrate feedback provided on suspicious transaction reporting. Supervisory authorities also provide feedback to FIs regarding the implementation of other AML/CFT requirements.

14. There is no feedback on implementation of AML/CFT requirements by DNFBPs. It is noted that DNFBPs did not submit STRs and were not supervised for AML/CFT compliance. Therefore, it was not possible to provide feedback on the implementation of AML/CFT requirements by these entities.

Weighting and conclusion

15. Togo has issued general guidelines for all FIs, and specific guidelines on STRs and TFS for all reporting entities. In addition to the guidelines on STRs and TFS, specific guidelines have been issued to notaries, lawyers, bailiffs, casinos & gaming establishments. However, there are no specific guidelines for DPMS, real estate agents and TCSPs. There is no feedback to DNFBPs on AML/CFT requirements. Among the DNFBPs, real estate agents and independent legal professionals are weighted most important, respectively in Togo, while remaining ones are rated less important. Therefore, the absence of feedback on STRs to DNFBPs is not considered a deficiency since no STR has been filed. The absence of feedback on other requirements for DNFBPs is considered a minor shortcoming in Togo's implementation of R.34.

16. **On this basis, Recommendation 34 is re-rated as Largely Compliant.**

IV. CONCLUSION

17. Overall, sufficient progress has been made to justify a re-rating of Recommendation 34.

18. Table 2 below shows Togo's MER ratings and reflects the progress it has made, including the rating based on this report:

Table 2. Technical Compliance Ratings (November 2024)

R.	Rating
1.	PC (MER 2022)
2.	PC (MER 2022)
3.	C (MER 2022)
4.	LC (MER 2022)
5.	PC (MER 2022)
6.	PC (MER 2022)
7.	PC (MER 2022)
8.	PC (MER 2022)
9.	C (MER 2022)
10.	PC (MER 2022)
11.	LC (MER 2022)
12.	PC (MER 2022)
13.	LC (MER 2022)
14.	PC (MER 2022)
15.	NC (MER 2022)
16.	PC (MER 2022)
17.	LC (MER 2022)
18.	LC (MER 2022)
19.	NC (MER 2022)
20.	PC (MER 2022)

R.	Rating
21.	C (MER 2022)
22.	PC (MER 2022)
23.	PC (MER 2022)
24.	PC (MER 2022)
25.	PC (MER 2022)
26.	PC (MER 2022)
27.	C (MER 2022)
28.	PC (MER 2022)
29.	PC (MER 2022)
30.	C (MER 2022)
31.	C (MER 2022)
32.	LC (MER 2022)
33.	PC (MER 2022)
34.	PC (MER 2022) ↑LC **(FUR 2025)**
35.	PC (MER 2022)
36.	PC (MER 2022)
37.	LC (MER 2022)
38.	LC (MER 2022)
39.	LC (MER 2022)
40.	LC (MER 2022)

19. Togo has 17 Recommendations rated C/LC. Togo will remain in Enhanced Follow-up based on effectiveness ratings. Togo's next Enhanced FUR is due in May 2026.

Annex to the FUR

Summary of Technical Compliance –Deficiencies underlying the ratings

Recommendation	Rating	Factor(s) underlying the rating
1. Risk assessment and application of a risk-based approach	PC	• The lack of formal adoption of the NRA report at the highest level by the competent authorities does not make it possible to ensure a substantial allocation of resources to support the implementation of the action plan in coherence with the risks identified. • The lack of assessment of risks specific to VASPs, PF and maritime crime with regard to the country's context, should put into perspective the overall understanding of these risks by the Togolese authorities;
2. National cooperation and coordination	PC	• The main bodies in charge of leading the national coordination framework, namely CONAC and the trade facilitation unit, are not yet operational. Their respective compositions do not include all relevant AML/CFTP players either. Moreover, this coordination framework does not involve policies to combat proliferation.
3. Money laundering offences	C	• The criminalisation of ML and the related requirements are fully taken into account by the Togolese legal system.
4. Confiscation and provisional measures	LC	• However, there are no measures aimed at not compromising the capacity of actors in the criminal justice chain to freeze, seize or recover property, or even a mechanism for managing seized and confiscated assets.
5. Terrorist Financing Offence	PC	• The scheme does not take into account the financing of an individual terrorist or a terrorist organisation for any purpose and the financing of foreign terrorist fighters' travel. • The possibility of establishing the TF offence even if there no link with one or more specific terrorist acts is not explicitly guaranteed by law or case law.
6. Targeted Financial Sanctions Related to Terrorism and Terrorist Financing	PC	• The deadline for notification of the sanctions lists to reporting entities and other natural or legal persons likely to hold the funds and resources of designated persons and entities is relatively long, approximately two weeks after the publication of the lists. • There are no set criteria of evidence defined to justify designations on the sanctions lists. • Specific procedures for requests for de-listing and unfreezing of funds under UNSCR 1267/1999, *ex-parte* intervention is not provided for. • No procedure is defined to allow persons bearing the same name as a designated person and whose assets and other resources are frozen as a result of this similarity, to request the unfreezing of the said assets and resources. • The Togolese system also does not provide for a procedure to inform the public of the possibility of informing the Office of the UN Ombudsman with a request for de-listing from the Al-Qaida sanctions list in accordance with UNSCRs 1904, 1989 and 2083. • The legislation also does not specify whether appointments are subject to the existence of a legal process. We also note the lack of guidelines for FIs and DNFBPs to ensure that they properly implement administrative freezing orders.
7. Targeted Financial Sanctions Related to Proliferation	PC	• There is no appropriate mechanism in Togo for the implementation of targeted financial sanctions linked to the financing of proliferation; • There are no monitoring and supervisory authorities designated to ensure the effective implementation of the administrative freezing measures by the DNFBPs; • No procedure is defined to manage similarity errors and to request the unfreezing of the assets and resources in question.
8. Non-profit Organisations	PC	• The consecration of the risk-based approach in the NPO sector is recent in Togo. Consequently, risk-based inspections and monitoring are not yet effective; • The legal framework also does not define the procedure and timelines for reviewing new information and vulnerabilities identified in the NPO sector; • Risk-based supervision and monitoring are not effective also due to the lack of designation of a control and supervision authority for NPOs in the area of AML/CFT that can apply the sanctions provided for by law, nor of a register mandatory registration of information related to their administration and management.
9. Financial Institution Secrecy Laws	C	• With the adoption of AML/CFT Law No. 2018-004, professional secrecy is no longer an obstacle to access and exchange of information relating to information held by FIs in accordance with FATF requirements.
10. Customer Due Diligence	PC	• The Togolese legal framework does not require FIs to take into account the beneficiary of a life insurance contract as a relevant risk factor; • FIs also have no option to implementing customer due diligence obligations where they reasonably believe that they would alert the customer by implementing such obligations, in the event of a suspicion of ML or TF; • The issue of identifying the beneficial owners of legal arrangements is not targeted by the law. • And for customers that are legal persons, there is no provision that requires FIs to identify the relevant natural person who occupies the position of senior officer where no natural person is identified in the implementation of points (a) or (b) of **Criterion** 10.10 above. • The Togolese legal framework has not made provisions explicitly obliging FIs not to open an account, not to carry out a transaction, or not to establish or terminate the business relationship, when they fail to implement the required customer due diligence measures.

Recommendation	Rating	Factor(s) underlying the rating
11. Record keeping	LC	• The lack of precision on the notion of adequacy of the documents to possibly reconstruct individual transactions as well as the lack of obligation for all FIs to keep the outcomes of any analysis conducted for at least five years from the end of the business relationship or the date of the occasional transaction and to quickly make available all the information obtained within the framework of the customer due diligence measures and the documents relating to the transactions.
12. Politically Exposed Persons	PC	• The definition of PEPs contained in the Law is not in line with that of the FATF as it limits the notion of PEP to certain well-defined functions, impacting the implementation of due diligence measures required of all PEPs. • Required due diligence measures are not applicable to family members of domestic PEPs and persons known to be closely associated with them. • There is no provision requiring FIs to take reasonable steps to determine whether the beneficiaries of a life insurance policy or their beneficial owners are PEPs. • Furthermore, insurers are also not required, where higher risks are identified, to inform senior management before payment of funds, to carry out an enhanced review of the business relationship with the contract holder and to consider filing an STR.
13. Correspondent Banking	LC	• No obligation for FIs to know whether the correspondent has been the subject of any investigation or measures by an ML/TF supervisory authority, but also to clearly understand the respective responsibilities of each institution in terms of AML/CFT in the context of a banking relationship.
14. Money or Value Transfer Services	PC	• The country has not adopted the uniform law on the litigation of violations of the regulations of external financial relations of UEMOA member States and its enforcement Decrees. In the lack of other relevant texts, the assessors are not in a position to assess the proportionate and dissuasive nature of the sanctions applicable in the event of infringements and violations of the regulations applicable to MVT services; • The agents of MVT service providers are not subject to the obligation of approval or registration by a competent authority; • SMVT providers who use sub-agents are not required to include them in the AML/CFT programs for which they are responsible as FIs. They are also not obligated to ensure the implementation of such programs by their sub-agents.
15. New Technologies	NC	• AV-related activities and VASP activities or operations are not yet regulated in Togo. The competent supervisory authority has also not yet been designated.
16. Wire Transfers	PC	• There is no provision that requires FIs to make available to the beneficiary's FI or to the competent authorities the required information on the originator and beneficiary within 3 days; • There is no legal obligation that prohibits the originator's FIs from executing wire transfers if they do not comply with the requirements set out in criteria 16.1 to 16.7. • There is no provision obliging the Originator's FIs to keep all information collected on the Originator and beneficiary in accordance with the requirements on criteria 11.2, 11.3 and 11.4 • There is no legal obligation for FIs to take reasonable steps to detect cross-border wire transfers that lack required originator or beneficiary information; • There is no provision obliging MVT service providers to make a suspicious transaction report in all the countries concerned by a suspicious wire transfer.
17. Reliance on Third Party	LC	• No legal provision requires Togo, when determining the countries in which third parties may be established, to take into account the information available on their risk level;
18. Internal Controls, Foreign Branches and Subsidiaries	LC	• There is no exchange of information relating to customers, accounts and transactions between the branches/subsidiaries and the compliance, audit and/or AML/CFT functions at group level, when they are necessary for AML/CFT purposes.
19. Higher-risk Countries	NC	• FIs do not are required to apply due diligence measures and countermeasures proportionate to the risks when the FATF calls to do so; • There are also no measures to inform FIs of concerns about deficiencies in other countries' AML/CFT regimes.
20. Suspicious Transaction Reporting	PC	• The legal framework establishes the principle of STRs for FIs. On the other hand, they are not required to report attempted suspicious transactions.
21. Awareness-raising and confidentiality	C	• Togo has taken all the necessary measures to meet the requirements of this Recommendation.
22. Designated Non-Financial Businesses and Professions: customer due diligence	PC	• The Togolese legislation does not provide for record keeping as required for certain DNFBPs; • There is no obligation to assess ML/TF risks before the launch of new products, services, distribution channels or the use of new technologies; • The legal framework also does not provide for recourse to third parties for DNFBPs, in application of the requirements of Recommendation 17.
23. Designated Non-Financial Businesses and Professions: other measures	PC	• Lack of measures relating to the obligation to report attempted suspicious transactions, • The fact that STRs do not cover all acts of TF, • The lack of a binding measure imposing a continuous training program for the staff and managers of DNFBPs, • Lack of provision obliging DNFBPs to apply countermeasures to high-risk countries at the request of FATF.
24. Transparency and	PC	• The country does not have a mechanism to update RCCM information without delay. It also

Recommendation	Rating	Factor(s) underlying the rating
Beneficial ownership of Legal Persons		does not have mechanisms for updating the information on the beneficial owners of legal persons collected and kept in the company register; • No legal or regulatory text ensures that nominee shares and designated directors are not misused; • There is no express ban on bearer shares, nor sanctions for failing to meet the requirements of Recommendation 24; • Nor are there any provisions obliging the country to monitor the quality of the assistance it receives from other countries in response to requests for basic and beneficial ownership information or requests for assistance in locating beneficial owners residing abroad.
25. Transparency and Beneficial Ownership of Legal Arrangements	PC	• No retention period for documents is incumbent on DNFBPs who act as professional trustees in Togo; • Trustees are also not required to declare their status to FIs and DNFBPs.
26. Regulation and Supervision of Financial Institutions	PC	• Although the country has strengthened the regulation and control of FIs through the adoption and implementation of several texts relating to the financial sector in general, and to AML/CFT in particular, identification of the beneficial owners of FIs, risk-based approach for monitoring and supervision of FIs is not yet a reality in Togo.
27. Powers of Supervisors	C	• Togo has taken all the necessary measures to meet the requirements of this Recommendation.
28. Regulation and supervision of Designated Non-Financial Businesses and Professions	PC	• No DNFBP has yet been subject to AML/CFT inspection or supervision; • Several categories of DNFBPs including the real estate sector, dealers in precious metals are not regulated and therefore do not have a designated supervisory authority or self-regulatory body
29. Financial Intelligence Units (FIUs)	PC	• Although the FIU has broad prerogatives and powers required by the standards, the confidentiality of information and respect of professional secrecy which are imposed on the FIU members and on its correspondents are not guaranteed; • The FIU still functions based on an outdated Decree, which affects its operational and financial autonomy.
30. Responsibilities of Law Enforcement authorities	C	• Togo has taken all the necessary measures to meet the requirements of this Recommendation.
31. Powers of Law Enforcement authorities	C	• Togo has taken all the necessary measures to meet the requirements of this Recommendation.
32. Cash Couriers	PC	• In Togo, cash and BNI declarations are only compulsory for third parties entering or leaving UEMOA territory and not for people traveling between countries of the Union.
33. Statistics	PC	• In addition to the regular keeping of statistics on STRs received and disseminated by the FIU, Togo does not have comprehensive statistics on investigations, prosecutions and convictions, assets frozen, seized and confiscated and on mutual legal assistance in AML/CFT.
34. Guidance and Feedbacks	PC (MER 2022) LC (FUR 2025)	• Guidelines have been published for FIs and DNFBPs, but real estate agents, trust and company service providers and dealers in precious metals and stones have not received any specific guidelines, with the exception of those on Financial Transaction Reports and a practical guide to the application of targeted financial sanctions. • As well, no feedback was observed for the following DNFBPS categories: casinos and gaming establishments, real estate agents, trust and company service providers, dealers in precious metals and stones.
35. Sanctions	PC	• The administrative sanctions provided for in the regulatory texts governing FIs and DNFBPs do not provide for sanctions that specifically target violations of AML/CFT obligations.
36. International instruments	LC	• Togo has not criminalized insider trading, nor taken appropriate measures to ensure the protection of witnesses and whistleblowers.
37. Mutual Legal Assistance	LC	• The Togolese legal and institutional system allows it to provide the widest possible range of mutual legal assistance. • The country has also not put in place specific procedures for the establishment of priorities and the diligent execution of mutual assistance requests received, as well as an adequate monitoring system for the processing of mutual assistance requests; • There is also no express provision to clarify that dual criminality, where required, does not apply where the request does not involve coercive actions.
38. Mutual Legal Assistance: freezing and confiscation	LC	• Togo has taken all the necessary measures to meet the requirements of this Recommendation.
39. Extradition	LC	• Togo lacks a case management system and clear procedures for the diligent execution of extradition requests, including a prioritisation system; • There is no simplified extradition procedure when the person who is the subject of the request waives the formal extradition procedure himself.
40. Other Forms of International Cooperation	LC	• No legal provision provides for the obligation for the supervisory authorities to obtain the authorisation of their counterparts before using the information obtained from them for supervisory or other purposes, unless it is legally required to do so.

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May 2025



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Follow-up Report & Technical Compliance Re-Rating

The report also looks at whether Togo measures meet the requirements of FATF Recommendations that have changed since their Mutual Evaluation in 2022.

Follow-up Report